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FBI LAW ENFORCEMENT BULLETIN

JANUARY 1980

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FBI LAW ENFORCEMENT BULLETIN

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Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

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Forensic Science

SPEAKER IDENTIFICATION
(Part 1)

Three Methods—*Listening, Machine, and Aural-Visual*

BY BRUCE E. KOENIG
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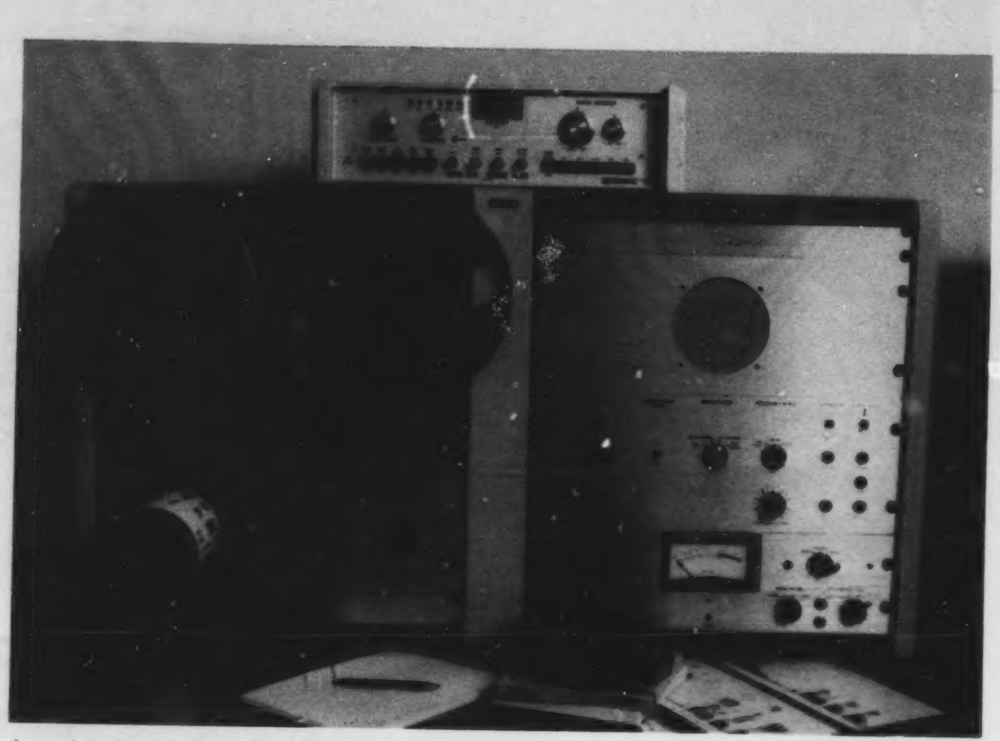
Federal Bureau of Investigation
Washington, D.C.

The 20th century has witnessed the rapid development and proliferation of communications technology—radio, telephone, television, recording devices—which have profoundly influenced the manner in which individuals communicate. The telephone system of modern, urban society permits instantaneous communication between virtually every business and household in the community and is especially influential in the way we pass on information. Therefore, it is not surprising that of the various communications media, the telephone, in particular, is adopted by criminals, both as an aid to committing their crimes and as a means of maintaining anonymity.

Telephoning instructions for a ransom payoff in a kidnaping case, transmitting wagering information, telephoning the police or news media to claim credit for a terrorist action, and communicating extortionate or obscene telephone calls, false fire alarms, and bomb threats are only a few ways in which criminals can perpetrate their acts through use of the telephone. Often, the only physical evidence linking an individual or group to a crime is a recording of one or more voices by the police department or victim.

If the police later develop suspects in the investigation, they are faced with the prospect of determining culpability based on comparisons of the voices. For this reason, law enforcement officials have an increasing need for objective, reliable methods of identifying telephone callers and the subsequent information which can be used for investigative leads and courtroom purposes. Consequently, developments in forensic applications of speaker identification are of considerable interest to the law enforcement community.



A sound spectrograph gives a visual display of human speech.

Speaker identification, as used in this article, refers to a broad realm of processes, both human and electronic, by which voices are analyzed, compared, and decisions of identity made.

Speaker identification methods have been more or less grouped into three general categories—listening, machine analysis, and aural-visual comparison using speech spectrograms. The first and third methods are essentially human processes, depending on the sensory faculties of hearing and sight and the comparative abilities of the human brain. The second method employs electronic devices to analyze the human voice, extract certain features that may be associated with the identity of the speaker, and compare these features against similar features extracted from other voice samples. The decision process may be left either entirely to the machine, in which case the success or failure of the technique may depend on how cleverly the machine was programed, or to human interaction which may be employed in the decision process.

Identifying a speaker by listening is familiar to everyone because that is the method used on a daily basis. Identification by listening might occur in one of many forms. For example, the recipient of obscene or harassing telephone calls may be called on to listen to the voices of several suspects (a "voice lineup"). Friends, relatives, or business associates of a suspect may listen to a voice recording of an unknown caller to determine whether they could identify the unknown voice as being that of the suspect. Police officers, listening to recordings made during a court-authorized wiretap in a gambling or narcotics investigation, may identify one of the callers as being a subject whom they had extensively interviewed in a previous investigation.

From the standpoint of usefulness to the police, identification by listening has numerous drawbacks. The technique can be very subjective, the process by which people identify voices is not completely understood, and it is often difficult for the witness to convey adequately the basis for his identification to a jury. Some speech scientists believe, however, that identification by listening may be an accurate and reliable voice identification method in certain circumstances.[1] Testimony by a witness that he could identify a speaker's voice has been admissible in most courts in this country since at least the early 1900's, as long as the witness was able to express the basis for identity.[2] The weight given the testimony by judge and jury depends on a number of considerations, including the witness' familiarity with the defendant's voice.

Machine analysis and comparison has the potential for being a more objective and accurate method for speaker identification.[3] However, for

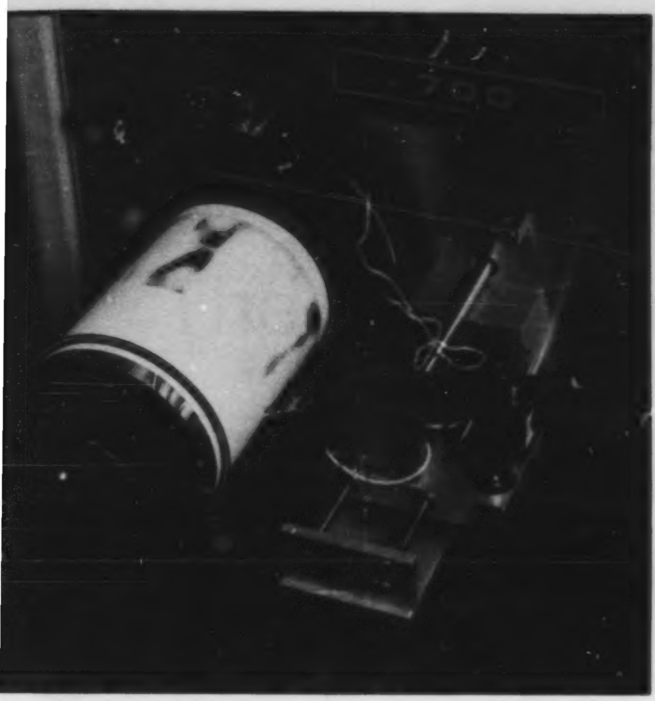


Figure 1

Examiner compares spectrograms for similarities.

the present, it seems to be a more useful technique for verification of a cooperative speaker's voice when compared to a relatively small group of known voice samples. This type of speaker "verification" rather than "identification" has a number of commercial applications, for example, confirmation of identity in bank-by-phone systems. Consequently, for the most part, research in this area has been directed at achieving an accurate verification process.

Voiceprint Identification

The third method of voice identification uses speech spectrograms, or what are commonly called "voiceprints,"[4] to make an aural-visual comparison of two voices. The tool of the voiceprint technique is a sound spectrograph which gives a visual display of the complex waveforms in human speech. The sound spectrograph consists of four basic parts: (1) A magnetic tape recorder, (2) a variable electronic filter, (3) a drum which holds a sheet of special paper and is coupled to a magnetic tape playback device, and (4) an electric stylus which marks the paper as the drum rotates. The magnetic tape recorder is first used to record the speech sample onto a reel of magnetic tape. Next, a short loop of the recorded tape containing the portion of speech of interest is wrapped around the playback device on the drum, and the speech sample on the drum is then played repeatedly at high speed in order to analyze its spectral or frequency content. For each revolution of the drum, the variable electronic filter passes only a certain band of frequencies, and the energy in this frequency band activates the electric stylus so that a spiral of varying darkness is produced across the paper. The darkness of the line at any point on the paper indicates the amount of energy present in the speech signal at the specific time within the given frequency band. As the drum revolves, the variable electronic filter passes increasingly higher frequencies with the electric stylus moving parallel to the axis of the drum. (See fig. 1.) Thus, a pattern of closely spaced lines is generated on the paper. The pattern is usually referred to as a spectrogram and has the dimensions of frequency, time, and amplitude.[5]

The vertical dimension in figure 2 shows frequency from 0–8000 Hertz or cycles per second, the horizontal dimension shows time with each of the short vertical bars near the top designating 0.1 second, and the darkness of the trace indicates the energy of the voice at that time and frequency.

When conducting an aural-visual voice identification of two or more voices, the voiceprint examiner uses the sound spectrograph to produce spectrograms of the unknown and known voices saying the same words and phrases. The spectrograms are then marked by writing each syllable and word in the speech directly below

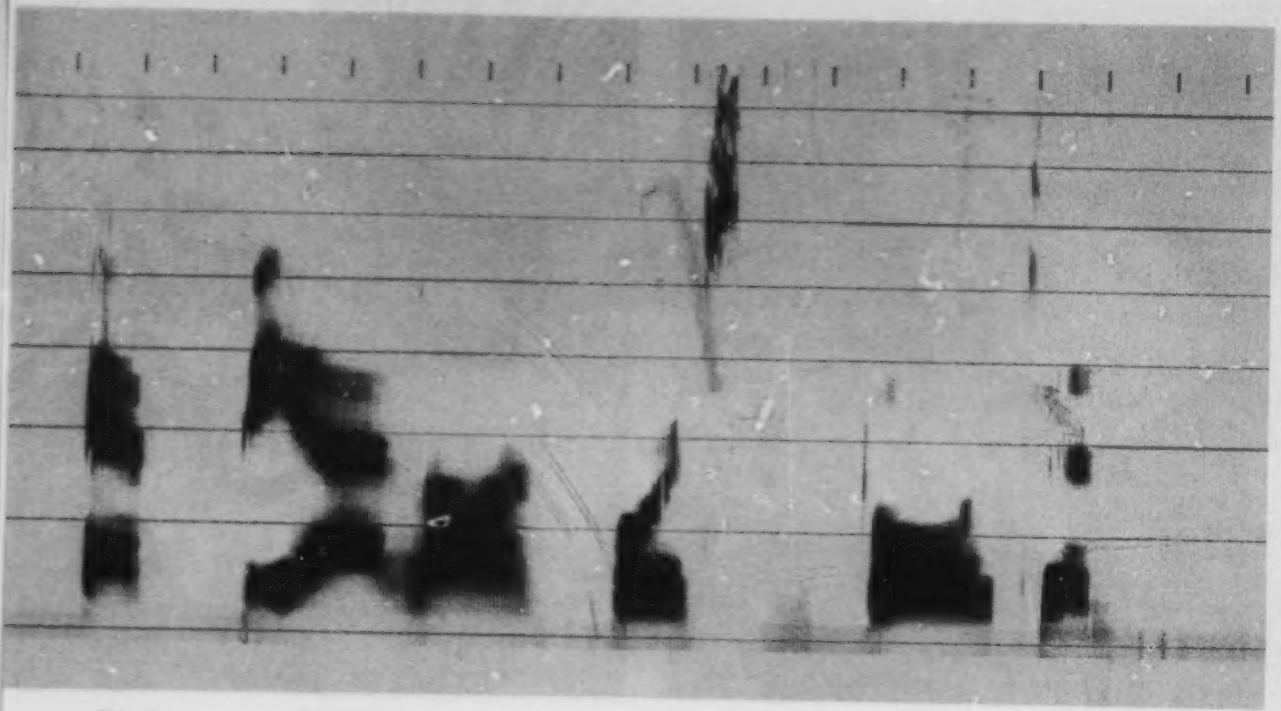


Figure 2

the corresponding patterns on the spectrograms.

The voiceprint examiner then uses one of several methods to conduct the voiceprint examination. The examiner can simultaneously view the spectrograms while listening to the corresponding speech samples from the known and unknown recorded samples, or the visual and aural (listening) examinations can be conducted separately. Typically, both methods will be employed during the examination.

Particular segments of the speech that appear in both the unknown and known voice samples are then compared for similarities and dissimilarities in spectrographic patterns and voice characteristics. If more than one known voice is involved, the procedure is repeated to compare each of the known voices with the unknown sample. Sometimes, comparisons among several unknown voices are made to determine whether they are likely to belong to the same person.

The above procedure requires that the examiner look for unusual patterns that may be important clues for identification. The examiner especially attempts to determine which dissimilarities in the spectrograms arise from interspeaker variability, indicating voices of different persons, and which dissimilarities arise from intraspeaker variability, indicating different utterances of a word spoken by the same person. In analyzing these clues and reaching a decision about voice identification, the examiner uses both aural and visual information.[6]

Even though voice spectrograms are accurate and repeatable graphic representations of speech sounds, the accuracy of the voiceprint technique for speaker identification is unknown due to speaker variability of all individuals, differing sample quality and duration, limited frequency bandwidth, distortion, disguise, and other factors commonly encountered in forensic applications. Federal and State appellate court decisions have been divided on the acceptability of voice spectrograms as evidence in court. This acceptability problem seems to center on the ambiguity of the legal rules concerning the introduction of new scientific evidence in court. **FBI**

(Continued next month)

The FBI conducts voice identification examinations for Federal, State, and local law enforcement authorities for investigative purposes only and will not provide expert testimony.

Footnotes

[1] Michael H. L. Hecker, *Speaker Recognition, An Interpretive Survey of the Literature*, (Washington, D.C.: American Speech and Hearing Association, 1971), p. 2.

[2] *American Law Reports, Annotated*, 70ALR2d, p. 996.

[3] A speaker identification system developed by a firm in Anaheim, Calif., demonstrated an extremely low error rate with good quality, wideband speech and speech processed through a telephone simulator. However, when used in actual forensic applications by a major police department, its error rate was considerably higher as the distortion, varying bandwidth, and noise on the actual telephone lines confused the system.

[4] Oscar Tosi, *Voice Identification, Theory and Legal Applications*, Baltimore, Md. (1979), p. 67. The author indicates that the term "voiceprinting" was first coined by C. H. Gray and G. A. Kopp in "Voiceprint Identification," Bell Telephone Laboratories (1944).

[5] Hecker, *supra*, pp. 59–61.

[6] *On the Theory and Practice of Voice Identification* (Washington, D.C.: National Academy of Sciences, 1979), pp. 6–8.

HYPNOSIS

The FBI's Team Approach

By RICHARD L. AULT, JR.
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If you desire to involve yourself in a controversial subject, the "nature and use" of hypnosis will provide you an inordinate amount of debate, particularly on the use of hypnosis in law enforcement.[1] There exists today disagreement between police officers who are doing their own hypnosis on witnesses and victims of crimes and some medical and mental health professionals who believe unrestricted use of hypnosis is dangerous. Additionally, there are individuals in the legal profession who are concerned about the possible misuse of hypnosis by police.[2]

Review of Controversy

The scientific community (those professionals, such as psychiatrists, psychologists, and physicians, who use hypnosis) takes the position that hypnosis can be dangerous in the hands of individuals who are not trained to judge the mental health of those persons they are hypnotizing. They argue that many witnesses, and more particularly victims of crimes such as rape, are often severely traumatized psychologically as well as physically. For police to hypnotize these individuals and have them relive the incident could possibly cause further psychological harm. Moreover, these professionals are leery of the potential for "leading" or "cueing" individuals under hypnosis. That is, they fear that police may, wittingly or unwittingly, implant "clues" in the mind of the hypnotized witness or victim.[3] In a recent article in *The Police Chief* magazine, Bill Putnam states, "There is the possibility, however, that witnesses questioned under hypnosis are more suggestible and, therefore, are more likely to give the answers that they think the interrogator wants them to give."[4]

John Stratton, a psychologist with the Los Angeles Sheriff's Office, says:

"As the techniques of hypnosis can be quickly taught, so too can the basic techniques of surgical removal of an appendix. . . . However, the diagnosis, the numerous pre- and post-operative procedures, as well as the infinite possibilities of side effects, . . . require years of training and experience. This is also true in hypnosis. The basic techniques are relatively simple; however, the ethical, professional and client-centered concerns are acquired over time. . . ."[5]

Harry Arons, a longtime proponent of law enforcement's use of hypnosis, quotes an article appearing in *Popular Mechanics* written by George J. Barmann:

"Dr. Gerber, who is one of the few coroners with both medical and legal degrees, says that police departments will want to use only the best men, properly trained medical people, either on the staff or on call, as hypnotists. To be truly effective they must know a great deal about medicine and human behavior."[6]

Law enforcement personnel do not disagree with the idea of the ethical use of hypnosis.[7] Their disagreement is with the idea that hypnotism is a dangerous tool. Supporters maintain they are not using hypnosis in a therapeutic context,[8] but rather, the use of hypnosis by law enforcement is limited to that area known as "hyperamnesia," which is "the retrieval of information or an increase in memory recall greater than that achieved at volitional or non-hypnotic levels."[9]

Advocates of law enforcement's use of hypnosis say that the fear of police creating or precipitating mental illness or implanting memories are baseless. These proponents state that they have noted no adverse reactions from those who have been hypnotized by police. Further, the evidence obtained under hypnosis must be corroborated. The fact that an individual is more receptive to suggestion under hypnosis is acknowledged,[10] but poor questioning or shoddy police work is just as likely without the use of hypnosis as with it. Hypnosis itself does not create slipshod investigation.

One fact does emerge from this controversy over who should conduct the hypnotic sessions: All involved agree that there is value in the use of hypnosis to elicit additional information from witnesses or victims who may not otherwise have it readily available to the conscious mind.[11]

History

The history of hypnosis is adequately discussed in numerous books and articles.[12] From ancient Egyptians who practiced "faith healing" to Braid, who first named the phenomenon "neurohypnotism" in 1843, and from Braid to the present where the nature of "hypnotism" is still debated,[13] the use and abuse of hypnosis throughout history is well-documented.

Disagreements about the nature of hypnosis will continue, but whatever its nature or however it works, it does work with many people.[14]

The Team Approach—FBI Policy

The FBI has adopted a "team" approach in its use of hypnosis. Formal FBI policy for the use of hypnosis, based on guidelines set out by the U.S. Department of Justice, has been in existence since 1968 and has remained virtually unchanged since then, although recent revisions in 1979 include the use of Special Agents who act as hypnosis coordinators.

The FBI's policy basically states that the FBI is to use hypnosis only in select cases. This would include bank robbery, where force is used or a large amount of money is involved, kidnaping, extortion, and crimes of violence which occur where the FBI has jurisdiction. Hypnosis is confined to use with key witnesses or victims of crimes only. No one who has the potential of becoming a suspect or subject in a case is to be hypnotized for any reason. For the sake of brevity, the term "witness" will be used in this article as a substitute for "witness/victim."

> **". . . there is value in the use of hypnosis to elicit additional information from witnesses or victims. . . ."**

The FBI uses only highly qualified hypnotists to do the actual induction. The use of hypnosis must be discussed with the U.S. attorney and his permission obtained. The U.S. attorney must then obtain written permission from the Assistant Attorney General of the Criminal Division, U.S. Department of Justice. The current policy also states that no Agent may participate in a hypnotic interview without written permission from the Attorney General. Further, the hypnotic interview must be recorded in its entirety, either by audio or video tape, with video the preferred method.

The guidelines specify the use of a psychiatrist, psychologist, physician, or dentist who is qualified as a hypnotist. The use of a qualified health professional provides additional protection for the witness, the cost of which is minimal. Agents have used the services of professionals who have given generously of their time, or who have charged only a modest fee for the sessions, because of their desire to help in what is for some a new area of hypnosis. Furthermore, the FBI has found that this added protection has not restricted Agents in their use of hypnosis.

Training of Coordinators

As with many new programs, the FBI had some early problems in its use of hypnosis. The results obtained were not consistent from field office to field office. Some Agents contacted doctors who did not want anyone present, except the witness and the doctor, during the hypnosis interview. Other doctors did not want video tapes made of the session. These and other problems were not in keeping with the legal needs of either the FBI or the prosecuting attorneys. With this in mind, the Training Division of the FBI instituted a program for 60 of its Agents from field offices throughout the United States. Its purpose was *not* to train Agents as hypnotists, but to teach them the theory, techniques, and hazards of the use of hypnosis. These Agents are the FBI's "hypnosis coordinators" and are trained to bridge that gap which exists between the professional, who does not always understand our legal needs, and the FBI, which does not always understand medical needs. The coordinator is responsible for setting up every hypnosis session. This assures more centralized control of the use of hypnosis in each FBI field office.

Members of the social science community assisted in this training by participating in this seminar which was designed to provide instruction to the 60 Agents.

On completion of the first 4-day seminar, the Agents were charged with the responsibility of returning to their offices and seeking a qualified professional to assist in future hypnosis sessions. Arrangements with this professional would include such items as the doctor's willingness to allow at least the Agent coordinator to be present at the hypnosis session, possible locations for interviews, an understanding that the entire interview must be recorded and recorded in a specific way (which will be discussed), arrangements for payment, and amount charged for the service.

Specific Techniques

The area of greatest concern was the potential for "leading" witnesses. While "cueing" does exist with or without hypnosis, the suggestibility of a witness in a state of hypnosis may be even greater than when not hypnotized.[15] To offset this tendency, and to provide a record should the witness' information be used in court, recording the hypnosis session should be conducted in three parts.

In the first segment, the psychiatrist, psychologist, or physician explains to the witness what hypnosis is, what some misconceptions are, and what should happen during the course of the session. The professional will also determine that the witness has no particular problems which preclude hypnosis. The coordinating Agent is present and may also ask questions to assure that the witness knows why he/she is participating in the hypnosis session.

In the second phase, either the professional or the coordinator asks the witness to relax and attempt to remember as much as possible concerning the incident. This is done with no prompting. Neither the Agent nor the professional should ask questions until the witness has had a chance to "run down." Then, any questions asked would be based only on what the witness has remembered during this phase.

The last phase is the actual induction. After appropriate hypnotic induction, and then regression, the witness is again asked to tell what he can remember. Once more, questions should be based only on that information produced during the hypnotic session. It is better for the hypnotist, as well as the coordinator, to know as little as possible about the case, so that cueing is minimal. With the above method, there appears less chance for the questioner to "slip," even if he does have knowledge of the case outside the witness' memory of the event.

The time involved for all three phases is usually about 1-3 hours, depending on the details recalled by the witness and the length of the professional's explanation.

Check List

To prepare the coordinator for the task of setting up a session, each Agent was provided with an informal check list which he could use in his operations. The check list is set out as follows:

Preliminary

1) Only witnesses and victims should be hypnotized and only after other methods of investigation have been exhausted. (It should be noted here that the FBI does not intend hypnosis to replace normal investigative procedures. It is not meant as a "hurry up" substitute for proper investigation.)

> **". . . no Agent may participate in a hypnotic interview without written permission from the Attorney General."**

2) Refer to and follow existing FBI policy.

3) Video tape requirements will be planned in advance of the first interview and should include:

- —Location (a quiet spot free from excess noise and large enough that those present will not crowd the individual being hypnotized; a comfortable chair; adequate heating or cooling; proper lighting).
- —Equipment (video equipment; proper number of microphones; a time-date generator, if available).
- —Properly cleared personnel to operate equipment.
- —A proper briefing for camera crew (if any).

4) Choice of professional—only a psychiatrist, psychologist, physician, or dentist. (It should be noted that the use of the terms "psychologist" and "psychiatrist" is regulated by most States and the District of Columbia. The FBI currently uses only those properly trained individuals who are licensed or certified as psychologists, psychiatrists, or physicians. Further, while our policy does include the use of dentists who are qualified as hypnotists, no dentists have been used as of this date. The qualifications of a hypnotist are somewhat vague. There is no standard for a "qualified" hypnotist *per se*. However, several societies, such as the American Society of Clinical Hypnosis and the Society of Clinical and Experimental Hypnosis, do set standards for the use of hypnosis and the training of hypnotists. It is to these standards the FBI refers when we speak of "qualified.")

5) Items to be discussed with professionals:

- —FBI requirements (for recording sessions; for keeping tapes; and various legal requirements.)
- —Dangers of cueing.
- —Desire for coordinator to do the interviewing. (This is not an inflexible rule. At this time, many psychiatrists and psychologists have done enough work with FBI Agents that the professional himself can and does conduct much of the interview.)
- —Agreement on payment. (Charges may be by the hour, by the session, by number of persons, or a flat rate.)
- —Long-term arrangements, such as the possibility of obtaining security clearance for the doctor and the doctor's future participation in FBI cases.
- —Comfort of witness.

The Hypnosis Session:

1) The preinduction interview, that portion conducted on tape prior to the hypnosis session, should include:

- —Discussion of hypnotist's background.
- —Voluntary participation of witness. Signing consent form.
- —Brief description of procedures.
- —Removal of misconceptions.
- —Discussion of basic health of witness (back trouble; contact lenses; color blindness; heart problems, mental disorders, blood pressure, if possible; diabetes). Any health problems must be resolved prior to interview.

2) Prior to taped interview, coordinating Agent will confer with others who may be present to advise them of the need for keeping quiet and unobtrusive.

3) Prior to hypnotic induction, the witness will be allowed to relax and recount all the details he/she can recall of the incident in question. Do not lead or question. Merely allow the witness to recount details in any order he desires.

4) The induction will be done by the professional. The coordinator should note for his records the doctor's opinion of the depth of trance and by what method the doctor estimates that depth.

5) The doctor may then transfer rapport to the coordinator for questioning about the incident. The coordinator will again simply let the witness recall the incident without prompting. After the witness has recalled the incident, the coordinator may go back and "zero in" on specific details.

6) Rapport will be transferred back to the doctor who will dehypnotize the witness. The doctor is in charge of the session. (If the Agent coordinator finds that the doctor's requirements do not meet the FBI's minimum legal standards, the Agent may find another doctor. In fact, he is required to do so. But once the session is started, the doctor is in charge.)

7) The original video tapes obtained from the interview are evidence and are treated accordingly. The chain of custody is maintained, and the tapes are stored in a secure location. Copies of the tapes are provided to the Behavioral Science Unit of the Training Division at the FBI Academy for assessment and research.

At this time, the FBI has used hypnosis in excess of 50 cases, and in 60 percent of those cases, the results show that additional information was obtained. Some of this additional information was relevant and provided immediate results, such as a very accurate artist's sketch made from the witness' recall under hypnosis. Some of the information is still open to question, since by its nature corroboration is made difficult.

Often overlooked as a member of the "team," an artist has often proved to be invaluable in a hypnosis session. Several cases in which the FBI was involved were resolved in dramatic fashion only because the artist was able to obtain a satisfactory composite sketch of the suspect. Artists assigned to the FBI Laboratory are available to travel to various field offices to work with the witness, coordinator, and doctor to produce composite drawings of the suspects. These artists are familiar with the use of hypnosis in aiding recall and the FBI's guidelines on hypnosis.

". . . the FBI does not intend hypnosis to replace normal investigative procedures."

The Future of Hypnosis

While hypnosis will continue to be a minor tool in the investigator's repertoire, it is nevertheless an effective one. Preliminary study has already shown that hypnosis can save manpower in investigations. The potential exists for the use of hypnosis with Agents themselves to enhance their own recall of various items or events.

One area which may be explored is the use of hypnosis to reduce stress among Agents involved in undercover operations or other critical activities. While this could prove very valuable to Agents, it might also be argued that this particular use of hypnosis is actually "therapeutic" in nature and thus out of the FBI's purview. The "team" concept is designed to offset arguments such as this, because the fact that a psychologist or psychiatrist is working with the Agent would enable him to employ such a technique.

The team approach has proven to be of great value to the FBI. The nature of this approach is such that it has introduced a "doctor-patient" relationship into the investigation, and its use assures the additional protection of witnesses and victims, as well as the minimization of any dangers, real or not, through the use of hypnosis. Further, while there is no doubt that there may be a few individuals in law enforcement who are unscrupulous in their techniques, this may also be true in the mental and physical health professions. The team approach may well help offset doubts about the professionalism of either party. The FBI does not tout its approach as the only method. However, law enforcement agencies may want to consider some of the Bureau's guidelines to improve their existing program or establish the place of hypnosis in their departments.

FBI

Footnotes

[1] Ron Alsop, "Clue That is Buried in Subconscious May Crack Case," *Wall Street Journal* (Midwest) June 27, 1978, p.1; R. W. Dellinger, "Catching Criminals Through Hypnosis," *The Washington Post*, March 26, 1978, Sec. C, p. 2; S. Johnson, "Hypnosis: Opening Crime Victims' Minds: Hopes and Fears," *Minneapolis Star*, February 8, 1979, p. 1; M. Reiser, "Hypnosis as a Tool in Criminal Investigation," *The Police Chief*, November 1976, pp. 36–40; R. Wilson, "Hypnosis: Investigating the Subconscious," *Police Magazine*, January 1979, pp. 14–20; Newsletter, Division 30: Psychological Hypnosis, American Psychological Association, December 1978.

[2] F. L. Bailey and H. B. Rothblatt, *Crimes of Violence: Homicide and Assault* (Rochester, N.Y.: Lawyers Cooperative Publishing Co.) p. 83.

[3] Alsop, note 1; Dellinger, note 1; Bailey, note 2; D. W. Shafer and R. Ramon, "Hypnosis to Aid Recall of Witnesses," *The International Journal of Clinical and Experimental Hypnosis*, April 1978, pp, 83–84; R. Reiff and M. Scheerer, *Memory and Hypnotic Regression*. (New York: International Universities Press, 1959) p. 61.

[4] B. Putnam, "Some Precautions Regarding the Use of Hypnosis in Criminal Investigations," *The Police Chief*, May 1979, p. 62.

[5] J. G. Stratton, "The Use of Hypnosis in Law Enforcement Criminal Investigations: A Pilot Program," *Journal of Police Science and Administration*, April 1977, pp. 399–406.

[6] H. Arons, *Hypnosis in Criminal Investigation* (New Jersey: Power Publications, Inc., 1977) p. 104.

[7] Johnson, note 1.

[8] Reiser, note 1, p. 36.

[9] W. S. Kroger, *Clinical and Experimental Hypnosis*, 2d ed. (Philadelphia, Pa.: J. B. Lippincott, 1977) p. 16.

[10] Alsop, note 1; Kroger, note 9.

[11] Arons, note 6; Kroger, note 9; Putnam, note 4; M. Reiser, Letter to Editor of American Psychological Association Division 30: Psychological Hypnosis—Newsletter, December 1978, p. 4; Stratton, note 5.

[12] R. G. Douce, "Hypnosis: A Scientific Aid in Crime Detection," *The Police Chief*, May 1979, p. 60; Kroger, note 9, pp. 1–7; L. J. LeCron and J. Bordeaux, *Hypnotism Today* (Hollywood, Calif.: Wilshire Book Co., 1976); M. M. Tinterow, *Foundations of Hypnosis—From Mesmer to Freud* (Springfield, Ill.: Charles C. Thomas, 1970).

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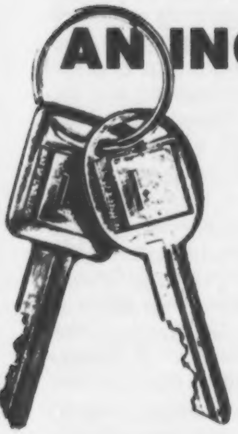
Automobile Theft

AN INCREASING CRIME PROBLEM



By SAMUEL J. ROZZI
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and
DET. SGT. RICHARD MUELLER
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Nassau County, N.Y.

The Chop Shop*

On March 20, 1979, a 1978 automobile valued at approximately $6,000 was reported stolen from a large, suburban mall located near New York City. At the time of the report, the owner indicated that he had parked the car at 10:30 a.m., and after shopping, returned at 11:15 a.m. to find it stolen.

The automobile, in this case, was recovered 4 days earlier as the result of a raid conducted on a "chop-shop" in Brooklyn, N.Y. The owner, who was a party to the scheme, left his auto there and had been told to wait several days before reporting the vehicle stolen. At the time of its recovery, the car was found to be in a partial state of disassembly, together with 29 other stolen late-model vehicles in similar condition. The value of the car, had it not been recovered, would have increased three-fold, from $6,000 to approximately $18,000, since it was about to be sold piece by piece.

Had the parts been sold, several body repair shops would have been able to provide their unsuspecting legitimate customers with replacement parts secured at a fraction of their value without the inconvenience of a 1- or 2-week wait to receive factory-ordered parts.

The legitimate customer would have his car returned in perhaps a day or two. The body shop owner might purchase a $2,800 "nose" (front-end assembly) for $1,500, and yet would be able to bill the customer's insurance company at the going rate of $2,800. Further, the body shop owner would not have his lot cluttered with cars waiting for ordered parts, enabling his business to operate on a quick turnover, high-profit basis. The "contact," who is the intermediary between the auto thief and body shop owner, would receive perhaps $500 for the arrangement, while the individual who actually "stole" the automobile would receive approximately $150. In short, with the exception of the legitimate customer, everyone would have a sizable financial gain.

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*A "chop-shop" is a facility, usually a body shop, that disassembles stolen autos for purposes of selling the parts, usually through an organized network.

Commissioner Rozzi

Detective Sergeant Mueller

The Dupe**

Vehicles other than automobiles are not immune from the activities of the professional thief.

In November 1978, the local office of a nationwide automobile and truck rental company reported the theft of a 1978 diesel truck valued at approximately $20,000 from its storage yard. In January 1979, the police were notified by the rental company that they had received an anonymous phone call indicating that employees of a company which held a service contract with the rental company had stolen several of the firm's trucks from the storage yard, re-registered them, and were using them for their own purposes.

The subsequent police investigation uncovered that in the latter part of 1977, "paper" (meaning a vehicle identification number and necessary ownership and registration material) was purchased from a salvage company that bought used, damaged, and mechanically unsound trucks from the rental company. In this instance, the paper was for a 1973 truck that was almost identical to the stolen 1978 truck. The company holding the service contract repainted the stolen 1978 truck and affixed the vehicle identification number (VIN) plate from the 1973 truck in the appropriate place. Since both vehicles are virtually identical in external appearance, one might ask how the stolen 1978 model disguised as a 1973 model was identified. Several things attracted the investigators' attention. First, exterior model markings indicated the truck to be a diesel when, in fact, it was registered as gas-driven. This alone was sufficient probable cause to look for identification numbers. Second, further inquiry determined that the 1973 model was a 4-cylinder, gas-driven vehicle. The 1978 truck, although identical in body shape, was a 4-cylinder diesel. In this case, the thieves had registered the diesel as a gas-driven vehicle. And last, the thieves repainted the vehicle to match their company colors and affixed the 1973 VIN to its proper position on the truck door. The color of paint under the VIN plate should have been the original color of the truck had it not been removed prior to repainting. Since, in fact, it was the same as the present color of the truck, it was obvious that the plate was affixed after the repainting.

Each of these incidents is a variation of auto theft. Involvement may go beyond the local level, since there are frequent instances where stolen vehicles are, in their entirety or in pieces, shipped out of State and even out of the country.

The 1977 Uniform Crime Reports indicate that one automobile is stolen every 33 seconds in this country. No matter what variation occurs, there is profit to be made by those who are willing to violate the law, and money to be lost by honest citizens who must pay the higher insurance premiums caused by this criminal endeavor. The chance, incidentally, is not a grave one. If one conducts research into the sentences of auto thieves, it becomes quite obvious that the thief may expect a minimal sentence, and generally, the charge will only be a misdemeanor.

No jurisdiction is immune from the auto theft problem. In 1978, over 5,500 vehicles were stolen in Nassau County, with an equal number being stolen in neighboring Suffolk County. New York City, the western neighbor of Nassau County, recorded some 96,000 stolen vehicles in the same period. Nassau County's recovery rate was approximately 57 percent, up from 37 percent in 1977, but down from over 90 percent just 10 years ago. The 20-percent increase in recovery rate between 1977 and 1978 is a result of the police department's commitment to controlling the problem.

**The "dupe" (duplication) refers to a stolen vehicle that has been legally registered as a result of the use of a VIN from a salvage vehicle (vehicle certified for destruction).

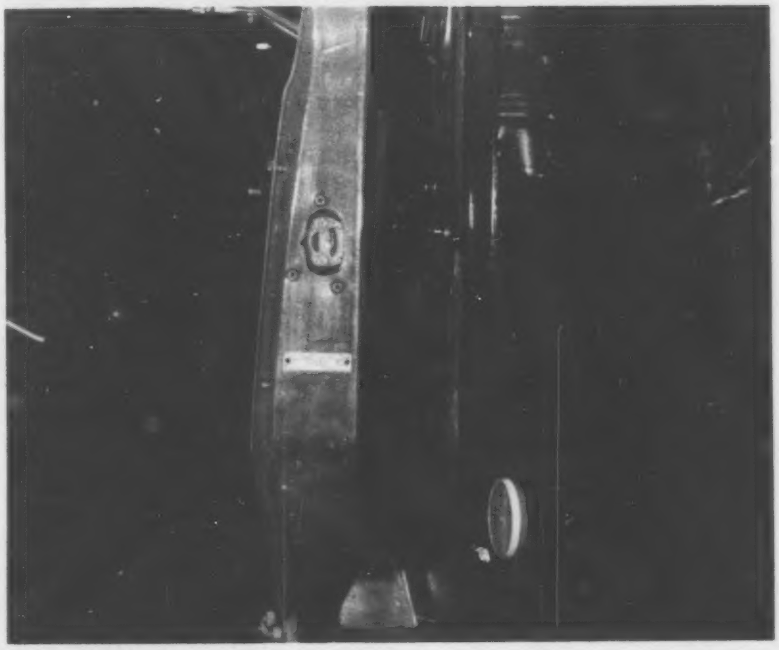
Joy-riding is no longer a major problem. Autos stolen for this purpose are, with few exceptions, recovered. The youth of our affluent population either own their own vehicles or have access to vehicles owned by their parents. The real problem centers around the professional thief who uses one of the methods previously described.

The chop-shop may work in conjunction with a car thief who steals cars only for parts, or with the automobile owner who wishes to dispose of his vehicle for some reason (debt, mechanical unsoundness, etc.). Teenage car thieves may be given $50–$150 to steal late-model cars which they deliver to chop-shops. These cars are dismantled, and parts are cataloged and sold either to body shops or auto parts dealers. There is a network organization to dispense these parts. It is estimated that the illegal parts business grosses $4 billion annually—all of this tax free. It is no wonder that the insurance rates in urban areas, and particularly the New York metropolitan area, are among the highest in the Nation.

When dealing with a chop-shop, the automobile owner is usually required to leave the vehicle registration, and when the auto has been dismantled and the chassis crushed, the registration is returned to him by mail with the OK to report it stolen. Since at this point the car has been literally reduced to pieces, it can virtually never be recovered.

The contact purchases a salvaged (totally wrecked) vehicle for the express purpose of obtaining the VIN plate and the corresponding ownership documents. This individual pays top dollar for these "basket cases," excluding legitimate salvage buyers from making the purchase. Once the purchase is made, a thief is commissioned to steal a vehicle that matches the basket case in every way. Depending on the expertise of the contact, one or more of the vehicle identification numbers will be changed to make the stolen vehicle appear to be the salvaged vehicle. The remains of the salvaged vehicle are crushed, and the altered vehicle is resold to an unsuspecting buyer through one of several different ploys. Perhaps a

VIN plate from a 1973 "salvaged" truck which was affixed to a stolen 1978 vehicle. The outward appearance of both vehicles is virtually identical.



VIN plate on a duped truck. In this instance, the duped VIN plate had been affixed after the stolen truck was repainted.

Interior view of a chop-shop. Note that all of the late model vehicles, some of which still bear registration plates, are in a partial state of disassembly. When this photo was taken, several of the vehicles had not been reported stolen.

smooth-talking salesperson will befriend the owner of a service station or body shop and pose as a repossessor. The proprietor of these establishments will be asked if he could put a "nice car" with a "nice family" in return for a small finders fee. Other duped vehicles may be sold through small dealers or at auto auctions. Such vehicles may also come into the hands of major automobile dealers to be sold to unsuspecting buyers.

These illegitimate activities have the residual effect of inflating prices to legitimate body and fender repairmen, and even worse, they create the impression to the public that the entire industry may be involved in illegal behavior.

Dealing with the Problem

What can law enforcement officers do to control the auto theft problem?

The answer is to undertake an aggressive and progressive management approach whereby all related resources are identified and used. Specifically, the following can be of assistance:

1) Prevention through education. Act *before* the fact. This is the most meaningful approach. Law enforcement agencies must strive to raise the level of consciousness of the public so that they will make the necessary effort to reduce theft opportunities. Such cautions as not leaving the key in the ignition, remembering to lock the vehicle, and not becoming involved in "chance of a lifetime" automobile purchases must be emphasized. While these cautions seem to be somewhat obvious, they apparently are not since almost 40 percent of auto thefts involve situations where keys are left in the ignition and almost 80 percent involve unlocked vehicles.

A second dimension is to raise the level of awareness of law enforcement officers in terms of the problem, the techniques involved, and what to look for in addressing this problem.

2) Aggressive and active auto theft investigation. Law enforcement agencies must encourage aggressive and active investigation on the part of their officers, whether they be patrol officers or detectives. Do your officers routinely monitor body shops with an eye toward observing rapid repairs? Do they routinely stop unmarked flat-bed and conventional tow cars which are transporting late model vehicles that appear to be undamaged? In regard to the burgeoning truck theft problem, a productive technique might be to encourage patrol officers to pay close attention to truck identification numbers when dealing with disabled vehicles, accidents, traffic stops, and truck weighing facilities.

As a bit of agency introspection, has your auto theft reporting procedure been reduced to simply taking an affidavit and then filing it?

3) Liaison with other law enforcement agencies. Task force and regional models are the most productive in dealing with organized auto theft because of the absolute necessity for interagency cooperation and information sharing. Isolationist policies are counterproductive in auto theft investigations, and indeed, in most facets of police work.

4) Relations with the insurance industry. Are you familiar with the services of NATB? Have you considered forming an ACT committee? If you are unfamiliar with these organizations, it is an indication that you have not tapped one of the active resources available to you in connection with auto theft enforcement. ACT committees (Anti-Car Theft) have been formed in several regions of the United States under the sponsorship of NATB (National Auto Theft Bureau) to launch auto theft

campaigns in which social and community groups are encouraged to join forces with representatives of law enforcement, government, and industry. Relationships such as these can produce something as simple as the rewording of insurance claim form terminology or improvements in the form's caveat, both of which can be of invaluable assistance in improving your ability to enforce fraud and "falsely reporting" statutes. The ultimate goal of such law enforcement-industrial cooperation may be to seek reductions in insurance rates for the citizens in your jurisdiction.

5) Legislative suggestions and support. Do you support legislation related to auto theft, and more importantly, have you contributed suggestions to the legislative process? Are you familiar with the provisions of the Motor Vehicle Theft Prevention Act of 1979, which is presently pending before the U.S. Congress? Among other things, this act would require manufacturers to number all component vehicle parts made in this country, as well as those parts which are imported. It would further require any person, be it the operator of a salvage yard, body and fender shop, or auto dealer, to record by number each identifiable part he receives. Other provisions would allow for the seizure of any parts which show evidence of number alteration or removal.

In conclusion, whether one chooses to recognize the growing problem of auto theft, it is a reality. Aggressive enforcement and the ability to control auto theft are limited only by the degree of administrative commitment and the motivation and imagination of law enforcement personnel. It is the responsibility of the police manager to establish the proper climate in the organization. FBI

The Nassau County Policy Department's Teleview Unit has prepared a short video cassette program to train its patrol officers to recognize the indicators of a "duped" vehicle. Copies of the program are available to interested law enforcement agencies by writing to the Nassau County Police Department, 1490 Franklin Ave., Mineola, N.Y. 11501, and enclosing a blank 3/4-inch video cassette.

1978 Crime Statistics

Final 1978 figures extracted from the annual publication, "Crime in the United States," show that more than 11 million Crime Index offenses were reported to law enforcement agencies, indicating a 2-percent rise from 1977 and a 9-percent rise from 1974.

There was an average of 5,109 offenses per each 100,000 persons residing in the United States. The violent crimes of murder, forcible rape, robbery, and aggravated assault, representing 10 percent of the total volume of Index offenses, increased 5 percent. Property crimes of burglary, larceny-theft, and motor vehicle theft were up 2 percent as a group.

In 1978, law enforcement agencies were successful in clearing 21 percent of the reported Index crimes—46 percent of the violent crimes and 18 percent of the property crimes. An estimated 10.3 million arrests were made for all crimes except traffic violations. Of those arrested, 40 percent were under 21 years of age and 57 percent were under age 25. Arrests of males outnumber those of females by 5 to 1.

Other highlights from the 1978 publication are:

—Murder offenses were up 2 percent over 1977, but decreased 6 percent from 1974.

—Forcible rape rose 7 percent from the previous year.

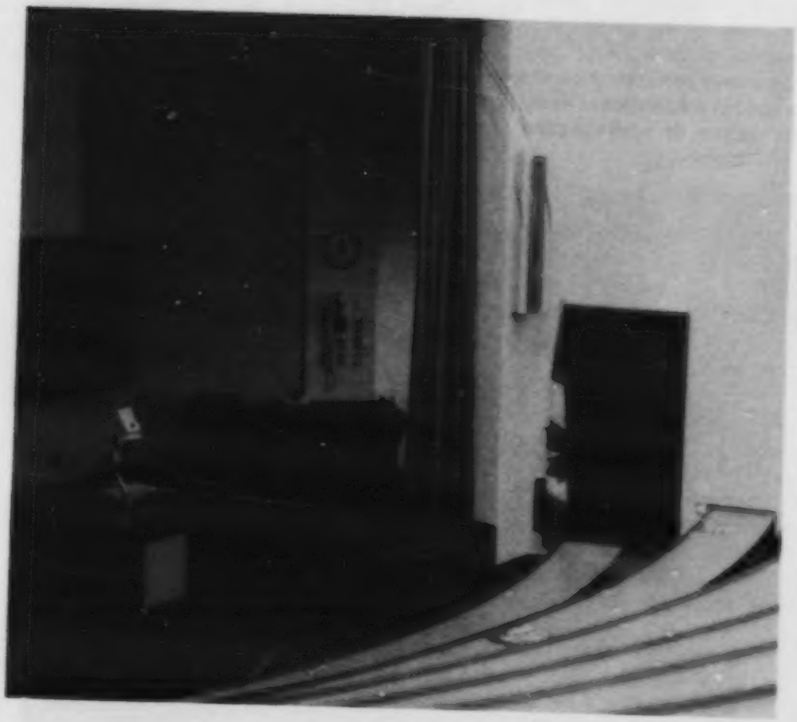
—Although robbery offenses increased 3 percent over 1977, there were 6 percent fewer of these crimes than in 1974.

—Incidents of aggravated assault were up 7 percent over 1977 and 22 percent over 1974. An average of 62 per 100 cases of aggravated assaults were cleared.

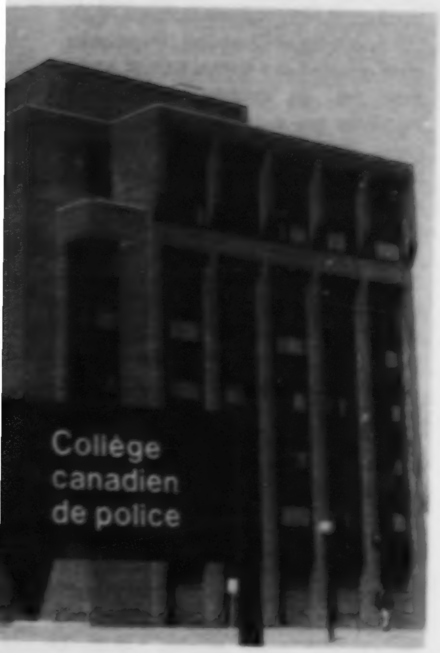
—The total loss resulting from burglary offenses was estimated to be $1.6 billion, an average of $526 per burglary. Residential burglaries accounted for 65 percent of all burglaries, and 73 percent involved forcible entries.

—An estimated average of 1 of every 145 registered motor vehicles was stolen in 1978.

—The most voluminous Index crime was larceny-theft which accounted for 5,983,401 offenses in 1978, more than half the Index total, and resulted in total losses estimated at $1.3 billion. FBI



Canadia
Police
College



The Canadian Police College

By CHARLES W. STEINMETZ
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Quantico, Va.

The Canadian Police College (CPC) is located along the Ottawa River in Ottawa, Ontario, the capital city of Canada. In every sense of the word, it is a college for law enforcement professionals. Students come from Federal, Provincial, and municipal police forces, the Canadian Armed Forces, and other countries. Eleven years before the official opening of the college on November 10, 1976, it was premised that the college should provide "experienced police officers with every essential form of police training, from organization and administration at the highest level to sophisticated investigative techniques." Further, it was noted that "this police college is to be open to qualified members of any Canadian police force."[1] This original planning goal has been achieved and expanded nationally to complement the law enforcement training programs not only of the Provincial and municipal police agencies but also Canadian civilian academic institutions as well.

Today, strides toward the integration of professional education and police training are made under the overall mission of the Canadian Police College, which is to encourage, guide, and stimulate both individual and organizational effectiveness within all of the Canadian law enforcement agencies. Achievement of this mission is being realized through planning, development, and implementation of specialized and general training; development of related educational programs; and the provision of research, information, and advisory services to support and supplement the mission.

An advisory committee, which is composed of representatives of the Provinces, the Federal Ministry of the Solicitor General (equivalent to the U.S. Attorney General), and the police profession, meets semiannually to review the progress and objectives of the college. In their efforts to set long-term objectives and priorities for police education, the committee is not content to merely serve as a review board. The committee members, well-acquainted with the system of criminal justice in Canada, have encouraged the establishment of specific objectives which clearly recognize the need for change that has become such a critical facet of quality police education and training.

These objectives are:

1) Continuous review of training, education, and management development needs;
2) Translation of those identified needs into effective programs and courses of learning;
3) Development and implementation of systems for monitoring the environment in anticipation of future needs for change;
4) Implementation of program evaluation systems to measure effectiveness against standards; and
5) Recruitment and development of expert human resources to meet program development and implementation demands.[2]

History

It is interesting to note the similarity between the early stages of the Canadian Police College and the original National Police Academy, which was sponsored by the Federal Bureau of Investigation in the United States. The CPC course was established in 1938 to fill a need for advanced training for Canadian police officers, whereas the FBI's program, prompted by President Franklin D. Roosevelt, was established in 1935. The early CPC course and FBI-sponsored training were both developed in response to each Nation's need to provide education for its police officers. The Canadian course was convened by the Royal Canadian Mounted Police (RCMP).

Since the late 1930's, the CPC course has evolved into a sophisticated college, although the location has changed from Regina to Ottawa for advanced training. The American National Police Academy, in turn, has developed into the FBI National Academy (NA). The FBI program has also expanded, both in enrollment and instructional scope, and its physical location has been moved from Washington, D.C., to the FBI Academy at Quantico, Va.

The original CPC course was an advanced course for police officers with the rank of sergeant or higher and was concerned with instruction in the law and related police procedures. A visit to the college today would reveal a much broader and sophisticated curriculum that includes all facets of contemporary law enforcement.

Instructional Staff

The instructional staff is drawn from various sources. However, a cadre of RCMP members is permanently stationed at the college. These men are senior noncommissioned officers (NCO) and are selected for their ability as instructors, as well as for their experience in various aspects of policing. In addition to having and continuing to develop their education in the areas of administration, management, and communication, some instructors have extensive experience in drug investigation, photography, identification procedures, instructional techniques, explosives, and gambling investigation.

In addition to the permanent staff, which numbers approximately 40, the college invites police agencies throughout Canada to send NCO's or officers to act as course directors for the duration of a specific executive development course or senior police administration course (SPAC). These course directors perform a role similar to the counselors at the FBI's National Academy. For comparative purposes, the SPAC program is not unlike the FBI NA, both in mission and scope.

Other guest speakers have been invited from the academic, business, and government sectors because of their individual knowledge and expertise. Prof. William Kelloway of the CPC anticipates that this phase of education will assist the police officer in meeting the challenges of complex social systems and increasingly sophisticated forms of crime.[3] The college insists that its lecturers in all areas of training and education be among the best in their respective fields. This requirement is part of a broad-based future objective of linking continuing education with the professionalization of police in Canada.

Faculty Exchange Program

A new phase of the professional development of the college staff was initiated in 1978 during a conference conducted with representatives of the FBI Academy at Quantico. This conference resulted in a formal mutual agreement for an exchange of faculty members on a periodic, one-for-one basis. The basic exchange is normally for 2 weeks, which allows each visiting instructor the opportunity to step directly into the classroom and teach, monitor classes, engage in exchange of ideas and materials, and otherwise function as a full staff member of the host institution with all of the inherent privileges and responsibilities.

Occasionally, instructors who have specific expertise on a topic which would benefit the counterpart institution are invited for a less extensive period of time, specifically for the purpose of delivering appropriate lectures.

The CPC recognizes that "the major foundation of police effectiveness and of their responsiveness in providing a community service" must be through sound education and training.[4] This concept is clearly compatible with the goals of FBI-sponsored training and education and is realized through the faculty exchange program. It is a program that is viewed by both the RCMP and the FBI as a significant step in achieving the rapid exchange of information and concepts in the vast and always expanding area of law enforcement education.

Curriculum

The college recognized early that much of the benefit of a police training curriculum could be derived only if programs were flexible in response to change. This meant that the need for change must be respected and that the curriculum should evolve according to the needs of all of Canada's police forces. The actual scheduling of courses at the college is set according to the stated training needs of the various departments.

Courses are offered in both French and English to meet regional cultural variances. For example, an instructional techniques course, which is offered both on location at the college and to the various police departments with the purpose of developing and certifying qualified instructors, was completely translated into French by members of the staff. This course is taught by bilingual staff members from the college, complete with all training aids and handouts duplicated in the French language. This high standard of commitment and excellence permeates the atmosphere of the CPC.

The two principal administrative courses which form the nucleus of training and education for police executives and managers are the following:

1) Executive Development Course. This is a 6-week course for senior police executives which is designed to present ideas, situations, and theories for analysis through class interaction and through dialogue with resource persons and seminar leaders. Material presented is expected to give class members a fresh perspective from which to view their duties as senior police executives.
2) Senior Police Administration Course. This course is specifically designed to meet the needs of the middle management level of Canadian police forces and is attended by members of the senior noncommissioned and junior officer ranks who are currently serving or about to be appointed to supervisory positions. Communication skills, managerial concepts relating to human resource development, overview of crime trends, and the role of the police officer in a complex society are major segments of the 5-week curriculum.

Specialized courses, offered on an inservice basis away from or at the college, range in duration from 4 days to 12 weeks. These are:

1) Identification Methods and Techniques includes fingerprint comparison, photography, crime scene search, and presentation of evidence. (8 weeks in duration)
2) Advanced Identification Course involves collection of evidence, forensic pathology, arson investigation, and photography. (3 weeks in duration)
3) Drug Investigational Techniques is designed to develop skills, knowledge, and investigative techniques essential to the investigation of drug-related offenses. (2 weeks in duration)
4) Instructional Techniques Course teaches current and potential instructors both theory and technique of instruction. (2 weeks in duration)
5) Police Explosives Technicians Course gives instruction on the recognition, handling, and use of various types of explosive materials. (5 weeks in duration)
6) Counterfeit Investigational Techniques develops knowledge and skills necessary to successful counterfeit investigation duties. (2 weeks in duration)
7) Criminal Intelligence Course deals with investigative techniques for use in combating various types of criminal activity. (2 weeks in duration)
8) Intelligence Analysis Course treats methodology through which seemingly unrelated information and data are transformed into meaningful intelligence. (1 week in duration)
9) Gambling Investigational Techniques provides skills and information required to enforce legislation related to illegal gambling activities. (2 weeks in duration)
10) Commanders Course, Hostage/Barricaded Persons Situations is instruction which enables the person in charge to direct effectively operations using proper deployment of manpower and use of the negotiating team. (4 days in duration)
11) Negotiators Course, Hostage/Barricaded Persons Situations is intended for those who would be negotiators in these situations, including coverage of psychotic and criminal behavior. (4 days in duration)
12) Crime Prevention Coordinators Course emphasizes the management and planning of crime prevention programs, as well as developing and managing specific programs. (3 weeks in duration)
13) Fitness Leadership Course is for those who are engaged in an official health or physical fitness position. It presents lifestyle modification and life quality enhancement programs, with emphasis on leadership in various fitness and health promoting activities. (5 days in duration)
14) Effective Presentation Course is for personnel required to give formal presentations to groups. (1 week in duration)
15) Polygraph Examiners Course deals with criminal investigative interviews; 5 years' police experience required. (12 weeks with 2 weeks training in the field)
16) Human Relations Instructors Course is for those who will deal with instruction in job stress, interpersonal perceptions, crisis intervention, and communication in police/citizen encounters. (1 week in duration)
17) Multicultural Education Instructors Course offers instruction in cultural awareness, history of Canada's minority people, multiculturalism, and ethnicity. (1 week in duration)

In keeping with the challenges of growth and change, it should be noted that aspects of several of these courses are incorporated throughout various programs at the college. The physical fitness program, for example, is an integral part of both the Executive Development Course and the SPAC. Another course with aspects that are directly related to the Executive Development Course and SPAC programs is the Effective Presentation Course. The college's continuously developing curriculum clearly makes use of the concept of interaction among subject areas and recognizes the need for a well-educated police professional.

Research and Development

A necessary component of any comprehensive educational institution, the research and program development branch of the CPC, was formed to conduct research in police personnel management and training areas. Their research results provide a flow of information directly to the police community.

One of the latest achievements of the college is the CPC information service. This is a readily accessible source of information for police agencies that is based primarily on an expanding college library. The information service concentrates on police force management and police personnel administration, and it extends into matters related to operations.

Another important contribution to the information field is the publication of the *Canadian Police College Journal*. The *Journal* publicizes college programs, as well as printing significant articles of major police interest. An important feature of this magazine is the review of new books and law enforcement journal information.

Research activities at the CPC are geared toward the practical. They are viewed as a process for achieving expansion of experience which relates to issues of current interest to those in law enforcement.

Conclusion

The comments in this article are based on the personal experience of the author, a faculty member of the FBI Training Division, who participated in the exchange program with the CPC. The tangible results of this program abound, such as the exchange and implementation of sound ideas to enhance each agency's training program. The intangible results are equally important. The informal discussions, the participation as coequals in each institution's programs, and the sharing of intercultural outlooks about the future of education for the law enforcement profession were invaluable.

The exchange program promotes a healthy perspective about law enforcement in general. Its valuable results encourage exchanges of similar types, not only between different countries but also among the various agencies within a country. The National Advisory Commission on Higher Education for Police Officers stated that the best way to educate the police institution for change is to develop the capacity of the police to use knowledge to solve problems. They were, in effect, alluding to programs of this type. Using knowledge to solve problems includes the use of information gathered from many sources in order to produce or test new conclusions. In addition, it can and should include an educational program which provides brief, intensive residential periods at various institutions.[5] These objectives can be broadened and interpreted to include the type of exchange programs addressed in this article.

Those of us in law enforcement cannot afford a myopic view of our influence and contribution to society. Free-flowing and open-ended discussion among our colleagues is essential to the advancement of criminal justice administration and responsible law enforcement. The professionalism of the Canadian Police College exemplifies the continuing endeavor toward such a goal.

Footnotes

[1] "The Canadian Police College," *Royal Canadian Mounted Police Gazette* 39 (January 1977).

[2] Canadian Police College Brochure, November 1976 (Liaison Branch of the Royal Canadian Mounted Police, LIA. 026) p. 3.

[3] Dr. William Kelloway, *A Continuing Education Program for the Police Profession* (Liaison Branch of the Royal Canadian Monted Police, 1976), p. 2.

[4] "The Canadian Police College," p. 2.

[5] Lawrence W. Cherman and the National Advisory Commission on Higher Education for Police Officers, *The Quality of Police Education* (San Francisco: Jossey-Bass Publishers, 1978), pp. 1–166.

Guide to Police Pursuit Tires

The Law Enforcement Standards Laboratory at the National Bureau of Standards has published a *Guide to High Speed Patrol Car Tires*, which is designed to assist police departments in selecting tires for patrol cars involved in high-speed pursuit driving. It stresses that regular passenger tires should not be used on vehicles involved in high-speed police work. Regular tires require certification for speeds up to only 85 mph (136 km/h), whereas pursuit tires should be tested and certified for use at road speeds up to 125 mph (200 km/h).

In addition to considering the speed factor, the guide also reports on the construction, proper inflation, the use of snow tires and chains, and the types of tires available. It encourages police departments to examine the types of roads driven, weather conditions, and special hazards and discusses other considerations, such as treadwear, braking traction, cornering traction, and driving and spinning traction. The guide also covers all aspects of maintenance, including proper tools, correct mounting and balancing procedures, alignment, and tire rotation.

The *Guide to High Speed Patrol Car Tires* (NBS-S.P. 480–33) is available for $2.60 a copy from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Order by Stock No. 003–003–[illegible]. FBI

Higher Education for Police Officers

By THOMAS A. REPPETTO, Ph. D.

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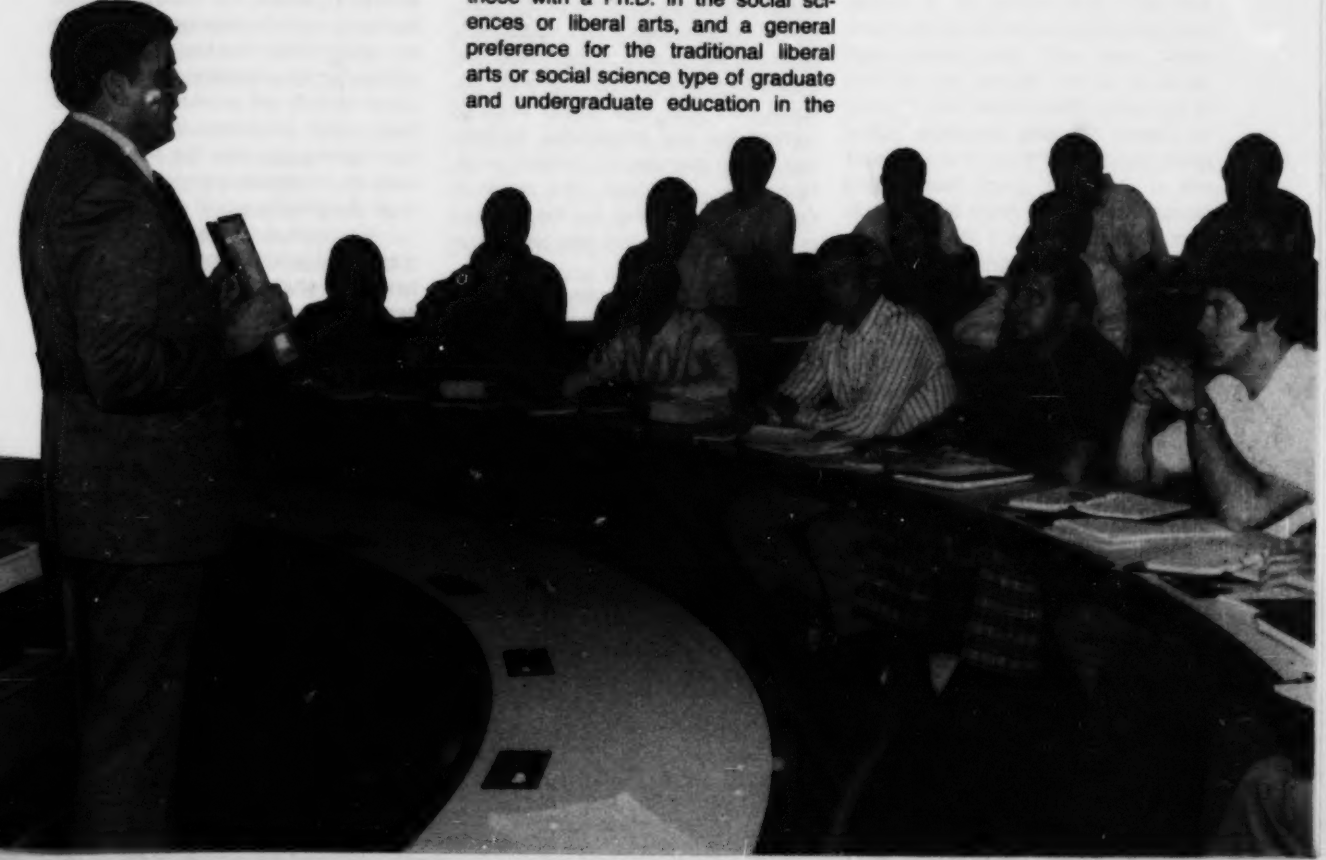
Editor's Note:

With the publication of *The Quality of Police Education* by Lawrence W. Sherman and the National Advisory Commission on Higher Education for Police Officers in early 1979, a lively debate has ensued in the academic and law enforcement communities concerning the nature of higher education for law enforcement officers in the future. One point of view in this debate was presented by Dr. Thomas Reppetto, John Jay College, New York City, in a lecture before the fourth National Executive Institute at the FBI Academy. This article presents Dr. Reppetto's analysis of what he believes should be the nature of higher education for law enforcement officers.

* * *

These comments are prompted by the publication of the very useful and provocative report of the Commission on Higher Education for Police Officers (HEPO), which was sponsored by The Police Foundation. The essence of the report's findings is that police education is of low quality, even dismal. Specific findings are that the caliber of faculty is low because they lack appropriate higher education for college professors (too many of them being expolice officers), the course content is often found to be too technical, and there is allegedly too much influence by police departments.

Among the recommendations are an end to 2-year degrees in police science or criminal justice, replacement of many of the present faculty by those with a Ph.D. in the social sciences or liberal arts, and a general preference for the traditional liberal arts or social science type of graduate and undergraduate education in the



Dr. Reppetto

preparation of individuals for police service. One of the catchy slogans of the commission's report was, "Don't educate the recruited but recruit the educated." That is, don't educate the present generation of police officers, but attract the already educated, particularly those with liberal arts degrees from the more prestigious institutions, into police service. It is thought that these individuals will constitute change agents to deal with the myriad of problems now existent in the police field.

The reaction to the report had been predictable. Some police officials and academics have been very critical, while others have praised it. I should like to address myself to the general problems of educating individuals for the police service, and to some extent, the whole question of the relationship between the academic world and the police.

Evaluation of Quality

Let us step back a bit from the name-calling in the current controversy over the HEPO report and look at two basic factors that underlie higher education in criminal justice. In the United States, the study of crime or the practice of criminal justice has traditionally been the wrong side of the intellectual tracks. Law schools have generally devoted very little time to the study of criminal law and procedures, typically one or two courses in 3 years of work. Historically, individuals who practiced criminal law, whether for the defense or the State, were the less prestigious members of the bar.

In the social sciences, the study of criminology has also been the wrong side of the tracks. Professors who studied criminal behavior generally taught at the less prestigious institutions and received fewer rewards from their disciplines. In the fields of political science or public administration, for example, it was fashionable to study the Presidency, Congress, or international affairs, but rarely criminal justice in one's own city.

There, of course, have been exceptions. At one time in the 1920's and early 1930's, the Harvard Law School, under the leadership of Dean Roscoe Pound and Professor Felix Frankfurter, later a Supreme Court Justice, undertook a number of studies in criminal justice, but they soon tired of the game. The University of Chicago's Department of Sociology in the 1920's studied crime and criminals extensively, but later sociologists opted for the construction of major theories of social organization. Thus, in the academic world, the quality of criminal justice studies is usually suspect.

The second basic factor in criminal justice education is that in the last 10–15 years, it has expanded enormously in the United States. In 1964 there were approximately 125 college programs offering 2- or 4-year or graduate degrees in criminal justice or criminology. Ten years later, there were over 1200, a 10-fold expansion.

This vast expansion explains, in part, the charges of low quality in academic criminal justice education. This has been one of the largest, most fantastic developments in American higher education in all its history. Indeed, there are some knowledgeable observers who believe that the expansion of criminal justice education that has taken place recently will provide a model for many other disciplines in the rest of this century and into the next. Given such an enormous expansion, it is obvious that quality would suffer.

No doubt, if only a handful of programs had been formed earlier with a handful of students, the quality of academic criminal justice might be much higher than it is, but it would still not reach the vast number of persons engaged in the criminal justice enterprise. At present, there are a half a million police officers and a half a million other professionals in probation, parole, or corrections, not to mention many more in private security. Indeed, all college education in America has declined in quality, because since World War II, it has become a mass enterprise rather than the preserve of a small elite. Many would regard this as a positive development for American democracy.

Crux of the Problem

The essential argument regarding academic criminal justice contains three parts. Who will do the teaching, who will be the students, and what will be the course content? Should the faculty be composed of expractitioners or traditional Ph.D.'s? Should the students be inservice or preservice? Should the courses be professional, social science, or liberal arts? I rule out vocational courses sometimes described as "how to put on the handcuffs," although in places where there are no police academies, community colleges may well take up the slack in response to their historic mission to render vocational education to the local population.

If we can determine what the course content should be, that is, what constitutes appropriate education for police service, then we can probably determine who should teach it and what sort of students might be involved. I am reminded of the quote by Alfred North Whitehead, the great philosopher and mathematician:

"The antithesis between a technical and liberal education is falacious. There can be no adequate technical education which is not liberal, and no liberal education which is not technical; that is, no education which does not impart both technique and intellectual vision."

The argument for a liberal arts education says essentially that one should study English, history, or one of the traditional disciplines, and upon completion of one's education, enter into a professional field. Such an education does not make one an expert in English or history, but rather, it teaches a person how to think and to analyze a problem. Presumably, such individuals can apply these talents to almost any situation and do better than individuals who have had a more technical education. Under this theory, the person who has been an English or history major will quickly learn the practical duties of a police officer in the police academy and on the job and will then use his superior intellectual equipment to become a first-rate officer.

"If change is to occur in police service . . . it will, indeed must, come from within."

A social science education as preparation for criminal justice is seen as enabling the student to major in one or a combination of social science disciplines. The student would study criminology, urban sociology, deviant behavior, and other similar courses, as well as the usual liberal arts foundation. He or she would not, however, study such things as police patrol, criminal investigation, or police administration. In this way, the student prepares for police service by studying the nature of social problems and the methods of the social scientist in order to acquire an understanding of the various problems that a police officer faces, and building on this foundation, will be able to deal successfully with those problems.

The professional major would, of course, require the student to take the usual liberal arts foundation, but it would emphasize the professional problems of the criminal justice field. For example, a student might study police patrol, criminal investigation, or even police administration. Here the theory is that the student who has actually been introduced to the terminology, methods, and major questions of the field is much better qualified to undertake the duties of a police officer. We note that in an applied field, such as engineering, no one would argue that a liberal arts or a social science education would be appropriate for one who seeks to be an engineer. That is, if one is going to go out and build bridges, one should study how bridges are built, i.e., take professional courses.

We are asking, then, "Should police officers prepare directly for the job by studying criminal justice matters or by studying social problems?" Or, should they simply take a liberal arts degree which is not preparation for any particular area?

Two groups would tell us that you cannot study directly in an academic setting to do police work. The first group are those career policemen who have always said, "You learn police work in the streets, not in a classroom." I can recall when I came out of police academy after 10 weeks of training, I was told, "Forget everything you learned there. One day in the street will be worth more to you than all of that." Still, I realized over a long period of time that while the street was a great teacher, it did not teach everything that one needs to know.

The second major group that would tell us that you cannot learn police work in an academic setting are the liberal arts elite group, and here they borrow from the British upper class. In the great days of the British Empire, individuals took a degree at Oxford or Cambridge in Greek, Latin, or medieval history and were immediately sent out to India to administer the waterworks or to Africa to collect the taxes, because it was argued that the educated generalist was vastly superior to the technical person. Of course, in the case of the great British universities, one did not go there unless one came from an upper-middle class or higher family, and great stress was laid on developing the character of a "gentleman." In general, we in the United States have not adhered to the viewpoint that individuals cannot be educated for specific occupations or that education should be the preserve of a small elite.

Of course, many fine professionals in policing and elsewhere have never attended college. In the 19th century, lawyers learned by apprenticing themselves to other lawyers, or engineers learned by going out with a survey crew and picking up the rudiments of civil engineering. But in the 20th century, most of the professions or technical disciplines have concluded that it is more efficient and effective to educate people in the classroom before they go into the field.

Findings From Another Field

For purposes of my response to the HEPO report, I examined other professional fields where undergraduate education is often professional in nature. I have, for example, studied undergraduate programs in journalism, an area where holders of the professional B.A. start "on the beat" as it were. My method was to examine the catalogs of some of the leading schools which offer degrees in this area. In this regard, I think we have something to learn from the journalists.

If we examine one of the most prestigious schools of journalism in the United States, that operated by the University of Missouri at Columbia, we find in their catalog a flat statement of their commitment to professionalism:

" 'The development of a fully reasoned meaning of the police role in society . . . must be worked out from within the occupation; it cannot be imparted to it by outsiders'."

"The Bachelor of Journalism degree is a professional degree, and the undergraduate program, with its operating media, is the foundation of the school. . . . The Missouri concept of journalism education deeply involves students in the practical day-to-day work of the communications media. . . . Thus, working shoulder to shoulder with experienced professionals on the faculty and elsewhere, the students learn the professional discipline which can be mastered only in the crucible of daily performance under pressure."

This sounds like the refrain that one can not know police work without walking the beat. However, the University of Missouri's catalog also makes the statement that the journalism student must " . . . be well grounded in the humanities, the social sciences, and the natural sciences." And they allow no more than one-quarter of the student's credits to be taken in professional journalism courses. One also finds similar statements in other catalogs. Yet, the journalism programs also require considerable practical work in the field. Thus, while only one-fourth of the student's course work may be devoted to professional matters, much more than one-fourth of the student's time is so dedicated.

In journalism, one also finds that the professional courses are, in fact, professional. For example, it is common to permit individuals to major in subfields, such as newspapers, magazines, radio, and TV, and courses have titles such as editing or advanced reporting. That is, they are analogous to police patrol or criminal investigation.

The HEPO commission argued that police administration should not be studied by most individuals preparing for the police service. I don't believe individuals who are going to enter the service at the recruit level should be taking extensive management courses, but I see no reason why police trainees cannot study police administration in the same way that those who are going to enter Government service as interns study the American Presidency or the work of the Cabinet. No one suggests that these people are going to be President of the United States, or even in the Cabinet, but only that it will help them in their work if they understand the theory of the Presidency or the Cabinet. In the same way, a patrol officer who understands the theory of police administration will be better able to carry out the work of the organization.

In my view, it is clear that criminal justice, like fields such as business, education, and journalism, will continue to provide professional education at the undergraduate level and that a significant amount of that education will, in fact, be composed of technical courses, as well as applied work in the field. Indeed, as the HEPO commission has pointed out, 58 percent of American undergraduates are enrolled in professional programs. I would also direct attention to a 1971 report on higher education by the Department of Health, Education and Welfare (HEW), which stated:

"The rigid and uniform structure of higher education has prevented the dynamic development and adaptation of training for the professions. For an increasing number of professions, a student must complete 4 years of liberal arts education in order to enter a professional school such as law, medicine, or social work. Once in, he must pursue courses of study which are often unrelated to the practical requirements of his profession, and that frequently make him less interested in the people whom his profession serves. This long academic road often fails to engage students in their work, or to show them the relevance of their studies to their career aspirations.

"We therefore recommend the creation of professional institutes devoted to human service, which will serve two broad goals: to begin professional training during the 1st year of college; and to reflect a new emphasis on training for human service. These innovations will require a number of new operating policies affecting the content and structure of the curriculums."

The Professional Content of Policing

To argue for the abolition of professional courses in criminal justice requires us to posit, among other things, that there is no professional content to policing. I would dispute this view.

"To argue for the abolition of professional courses in criminal justice requires us to posit . . . that there is no professional content to policing."

In the first instance, I would cite the necessity for a student who is aiming for a police career to have a fairly comprehensive grasp of criminal law and procedure. I have no doubt that the foundation for such understanding lies in courses in constitutional history and American government. However, these alone are not sufficient to give one the understanding necessary to perform the duties of a police officer. Criminal law and procedure is complex and is based on shifting court decisions. I would also submit that it is beyond the ability of the police academy to truly teach criminal law and procedure unless an inordinate amount of time, beyond that normally spent in police academies, is devoted to the subject. Nor is the teaching of criminal law and procedure in a police academy without a foundation in history and government necessarily wise. Here we are reminded that a little learning is a dangerous thing, because a student who lacks close familiarity with the spirit and concepts of the law, and yet who is invested with the broad powers of the law enforcement officer, may in fact be dangerous to the society he serves.

Second, I would suggest that a police aspirant become familiar with the area of investigation. Here I am referring to more than criminal investigation or crime scene searches. Rather, I would hope that the courses would deal with the means by which one conducts an inquiry in the broad sense. Again, this requires an underlying foundation of courses in scientific methodology, psychology, public speaking, and other areas. And again, while these are essential, they are not sufficient in themselves. Here we think of the journalist learning the who, what, where, when, why, and how and other facets of his craft.

The next appropriate area of study is what I would call counseling or applied behavioral science. The essence of this area would be how to deal with people and their problems. Again, it is clear that the social sciences in themselves do not give one the essential techniques for dealing with the citizen who has been a crime victim or offender or for dealing with family crises and the disturbed.

The fourth area I would consider essential would be for preservice students to have a very extensive and structured exposure to criminal justice systems of the type given in intern and community laboratory courses. Here the student can apply investigative and counseling techniques and observe the law in action. Again, we draw an analogy with the practical work in journalism.

Conclusion

Let me say in conclusion that I compliment the HEPO commission and the Police Foundation for their work, and my remarks are directed more at some of the responses which others have made to it. In this respect, I take exception to the views of some individuals who attempt to drive a wedge between practice, that is the profession of policing, and the teaching of criminal justice. For example, one eminent criminal justice educator is quoted as saying that field experience not only is unnecessary but actually undesirable in a faculty member, declaring that "second-career faculty tend to be second class." In this respect, I would ask what constitutes a second career. Is an individual who has been a police officer for a number of years and then decides to teach criminal justice at the college level in his second career, or is he continuing with his first career, namely, criminal justice? Is an individual who is trained as a professor of history or English who cannot find a job and then goes into criminal justice as a second or third choice continuing in his profession, or is that his second career?

At the university level, we do not produce teachers *per se*, that is, people who can teach any subject, as is sometimes done in kindergarten or primary grades. We produce people who are masters of a discipline. An English professor would never be asked to teach history at any decent college or university. Therefore, I would argue that the people who are experienced criminal justice professionals, hold graduate degrees, and go into the academic world, are continuing their primary careers, and the liberal arts retread, the individual who decides to change fields, may be the one in the second career. Again, I do not argue that police experience is essential, only desirable, or that individuals who change disciplines cannot be successful. But I would think the burden of proof on them is as great as the burden on the individual who leaves police service and goes into the academic world.

"The content of education for the police will not be determined by a handful of academics with no ties to the profession, but rather by cooperation between police and academics."

In relation to the question of who should be the students of academic criminal justice, I would argue for a mix of pre and inservice. But I would never choose the former to the exclusion of the latter. If change is to occur in police service, I suggest it will, indeed must, come from within. In this respect, the views of Professor Egon Bittner, as cited by the HEPO commission, are apropos:

"It is clearly not for lawyers, sociologists, or psychologists to develop an intellectually credible version of what police work should be like. This must be left to scholarly policemen, just as the analogous task is left to scholarly physicians, social workers, or engineers. . . . For the main reason for having professional schools of police work is to make a home for police work-study. It must be their own home, or the enterprise will be dispirited and doomed to failure. The development of a fully reasoned meaning of the police role in society, that might give rise to a range of rationally methodical work procedures, must be worked out from within the occupation; it cannot be imparted to it by outsiders. Outsiders can help in this task, but they cannot take it over. The main reason for this is not that outsiders are not adequately informed but that supplying knowledge from external sources would leave police work intellectually inert."

The content of education for the police will not be determined by a handful of academics with no ties to the profession, but rather by cooperation between police and academics. In sum, I disagree with those in the police profession who say there is nothing to learn from the academic world, but I also disagree with those in the academic world who say there is nothing to learn from the police. And, I strongly oppose the effort to separate police education from police practice. FBI

Law Enforcement Aids

Subject bibliographies on law enforcement (SB-117) and crime and criminal justice (SB-036) are available through the Government Printing Office to interested law enforcement personnel or agencies. Each contains several listings of available government documents dealing with individual topic matters. There is no charge for the bibliographies, and quantity copies will be provided. Copies may be obtained by written requests directed to C. A. LaBarre, Assistant Public Printer, Superintendent of Documents, Government Printing Office, Washington, D.C. 20401. FBI

The Constitutionality of Routine License Check Stops

A review of *Delaware v. Prouse*

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

A fundamental law enforcement activity traditionally used to promote highway safety is stopping motorists for the purpose of determining whether they have a valid driver's license and whether their vehicle is properly registered and inspected. This police practice, often characterized as a routine license check, is frequently accomplished through different procedures. For example, in some instances, a roadblock or license check lane is employed in which all or a predetermined number of vehicles are checked.[1] In other cases, a random stop is made, wherein a particular vehicle is selected by an officer and stopped.[2]

The constitutional propriety of routine license check stops has continued to be the subject of substantial litigation. As outlined in a previous issue of the *FBI Law Enforcement Bulletin,*[3] State and Federal courts have often been inconsistent in their assessment of the constitutional issues raised by these stops. In apparent recognition of the uncertainties generated by those conflicting judicial assessments and the importance of the constitutional and law enforcement objectives implicated, the U.S. Supreme Court recently decided the case of *Delaware* v. *Prouse*,[4] which involved the constitutionality of a routine license check stop.

It is the object of this article to examine in detail the *Prouse* decision and assess its impact on the frequently used law enforcement practice of stopping motorists to check for license and registration. Furthermore, several recommendations are offered to assist law enforcement agencies in implementing procedures that are consistent with the requirements enunciated by the Supreme Court in the *Prouse* decision.

Summary of the Facts

The facts of the *Prouse* case are rather simple. At 7:20 p.m. on November 30, 1976, a New Castle County, Del., patrolman in a police cruiser stopped an automobile occupied by Prouse. The patrolman testified that prior to stopping the vehicle he had observed neither traffic or equipment violations nor any suspicious activity, and that he only made the stop in order to check the driver's license and registration. As the patrolman was walking toward the stopped vehicle, he smelled marihuana smoke. The patrolman then observed in plain view some marihuana on the car floor. Prouse was subsequently indicted for illegal possession of a controlled substance. He alleged that the marihuana was seized pursuant to a stop which violated the Constitution and moved to suppress the evidence.

". . . stopping automobiles and detaining its occupants constitutes a 'seizure' within the meaning of the 4th and 14th amendments. . . ."

The trial court granted the motion to suppress, finding the stop and detention to have been wholly capricious, and therefore, violative of the fourth amendment. The Delaware Supreme Court affirmed the trial court's decision, noting that " 'a random stop of a motorist in the absence of specific articulable facts which justify the stop by indicating a reasonable suspicion that a violation of the law has occurred is constitutionally impermissible. . . '." [5]

In granting certiorari, the U.S. Supreme Court framed the issue as follows:

> ". . . whether it is an unreasonable seizure under the Fourth and Fourteenth amendments to stop an automobile, being driven on a public highway, for the purpose of checking the driving license of the operator and the registration of the car, where there is neither probable cause to believe nor reasonable suspicion that the car is being driven contrary to the laws governing the operation of motor vehicles or that either the car or any of its occupants is subject to seizure or detention in connection with the violation of any other applicable law." [6]

Eight Justices of the U.S. Supreme Court affirmed the decision of the Delaware Supreme Court and ruled that the stop in *Prouse* had violated the U.S. Constitution. Essentially, two fundamental questions were addressed by the Court in its opinion. First, does a routine license check stop constitute a warrantless seizure of the person within the context of the fourth amendment to the U.S. Constitution? [7] Second, under what circumstances is a routine license check stop constitutionally reasonable?

Does a Routine License Check Constitute a Seizure Within the Fourth Amendment?

The Supreme Court had little difficulty deciding that stopping automobiles and detaining its occupants constitutes a "seizure" within the meaning of the 4th and 14th amendments, even though the purpose of the stop is limited and the resulting detention quite brief.[8] Accordingly, such stops must meet the constitutional standard of reasonableness, which is designed to safeguard the privacy and security of individuals against arbitrary invasions by Government.[9] The Court noted that in determining whether a particular warrantless seizure is reasonable, the intrusion on an individual's privacy interests must be balanced against both the importance of the governmental objectives to be served and the potential for governmental abuse.[10]

With respect to the competing interests involved in routine license check stops, the Court concluded that a law enforcement officer's signal to pull over to the side of the road may in some instances create substantial anxiety, and at a minimum, constitutes an interference with an individual's freedom of movement and may be both inconvenient and time-consuming. However, the Court also recognized the State's vital interest in insuring that only those who are licensed to operate a motor vehicle do so, and that vehicles be properly registered and fit for safe operation.

With regard to the potential for Government abuse, the legal safeguards generally relied upon to achieve nonarbitrary seizures are: (1) A warrant; (2) articulable facts giving rise to probable cause; and (3) for limited seizures like brief investigative stops, articulable facts amounting to reasonable suspicion of criminal activity. However, in instances such as the stop in *Prouse*, where the balance of interests precludes the insistence upon some quantum of factual support, the Court ruled that other safeguards are constitutionally required to insure that a motorist's reasonable expectation of privacy is not subjected to the unbridled discretion of a law enforcement officer.[11]

Accordingly, the Court ruled that the discretionary spot check used in *Prouse* was illegal, because there were alternative mechanisms involving less potential for abuse which were adequate to serve the important elements of Delaware's highway safety program.[12] Moreover, the Court did not find very persuasive the argument that spot checks were substantially productive in discovering improperly licensed drivers or unsafe vehicles.[13]

Under What Circumstances Is a Routine License Check Stop Constitutionally Reasonable?

While the *Prouse* decision clearly places outside the scope of constitutional permissibility those routine license check stops that are made at random without any articulable suspicion of criminal activity or vehicle code violations, the opinion does provide some guidance as to procedures that might legally be employed to conduct such stops.

For example, a law enforcement officer may check a driver's license and registration whenever a vehicle is otherwise legally stopped as a result of an observed violation of the law. The officer would need an appropriate factual basis to the level of reasonable suspicion to justify a stop under these circumstances.[14]

Moreover, in the absence of an observed violation of law, the Court indicated that a State could develop other objective methods of conducting routine license checks which do not involve the unconstrained exercise of discretion.[15] While not intended to be an exhaustive listing of those possibilities, the *Prouse* opinion seems to suggest that procedures involving either the stopping of virtually all cars by means of a roadblock[16] or the stopping of every 10th car[17] would pass constitutional muster.

Implications of the *Prouse* Decision

It seems clear from *Prouse* that law enforcement agencies with mandated responsibilites involving highway safety must conduct routine license check stops in accordance with constitutionally acceptable procedures. To assist in implementing these procedures, the following suggestions are offered:

1) Written guidelines should be prepared by a qualified legal adviser and used as part of an ongoing training program so that all law enforcement officers are knowledgeable of the legal limitations on their authority to conduct routine license check stops. In this regard, State statutes which are worded to arguably authorize the random stopping of motorists to conduct routine license check stops should be carefully interpreted so that actions taken pursuant to those statutes do not exceed the constitutional limitations outlined by the Supreme Court in *Prouse.*

2) A complete written report of the facts surrounding the stopping of a motorist should be maintained. This is imperative, because if a particular vehicle is singled out for a stop as a result of an observed violation of law and evidence of criminal activity is subsequently discovered, the admissibility of that evidence will be contingent on the officer's ability to articulate a reasonable suspicion of criminal activity justifying the initial stop.[18]

3) The facts surrounding a routine license check stop should clearly indicate that the stop was made in good faith,[19] and that the primary purpose was to check for a valid license and registration, and not as a pretext or subterfuge for investigating other activity.[20] In that regard, the reasonableness of a seizure is generally determined by making a dual inquiry: (1) Was the officer's seizure justified in its inception? and (2) was the seizure reasonably related in scope to the circumstances which initially justified the intrusion? Applied to a routine license check, this inquiry would essentially be: (1) Was the stop justified in the first place? and (2) was it limited in scope to the sole purpose of checking for a valid license and registration?

Conclusion

The constitutionality of a particular routine license check stop involves the balancing of legitimate State interests in highway safety against an individual's interests in privacy and freedom of movement. While the *Prouse* decision may have narrowed somewhat the range of procedures that can legitimately be used by law enforcement to conduct routine license check stops, it is clear from the Court's opinion that alternative methods are available which can be both constitutionally acceptable and operationally effective. Moreover, the position a reviewing court ultimately adopts with respect to a particular stop may in large part depend on the professionalism and fairness demonstrated by the officers making that stop. **FBI**

Footnotes

[1] See, e.g., *People* v. *Andrews*, 484 P. 2d 1207 (Colo. 1971).

[2] See, e.g., *Kraft* v. *State*, 305 A. 2d 489 (Md. App. 1973).

[3] See, Schofield, "Routine License Checks and the Fourth Amendment," *FBI Law Enforcement Bulletin*, September 1976, pp. 27–31.

[4] 59 L. Ed 2d 660 (1979); See also, *Id.* at 666 n. 2 & 3 for citations to cases illustrating the conflicting results reached by different jurisdictions.

[5] *Delaware* v. *Prouse*, 382 A. 2d 1359, 1364 (1978).

[6] 59 L. Ed 2d at 665.

[7] U.S. Const. Amend. IV provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[8] 59 L. Ed 2d at 667.

[9] *Id.*

[10] *Id.* at 668.

[11] *Id.*

[12] *Id.* at 671.

[13] In that regard, the Court said, "Absent some empirical data to the contrary, it must be assumed that finding an unlicensed driver among those who commit traffic violations is a much more likely event than finding an unlicensed driver by choosing randomly from the entire universe of drivers." *Id.* at 671–672.

[14] *Id.* at 673.

[15] In a footnote, the Court made clear that its decision did not cast doubt on the permissibility of roadside truck weigh-stations and inspection checkpoints, where some vehicles may be subject to further detention for safety and regulatory inspection than others. *Id.* at 674, N. 26.

[16] *Id.* at 674.

[17] *Id.* at 674 (Blackmun concurring).

[18] See, *United States* v. *Soto-Soto*, 598 F. 2d 545, 547 (9th Cir. 1979).

[19] In the recent case of *United States* v. *Dunbar*, 470 F. Supp. 704 (D. Conn. 1979), a Federal district court ruled that a police officer's good faith belief that defendant was lost was not a sufficient basis for the officer to stop the defendant's vehicle. The court therefore suppressed evidence that the officer observed in plain view as a result of the stop.

[20] See, *United States* v. *Cupps*, 503 F. 2d 277 (6th Cir. 1974).

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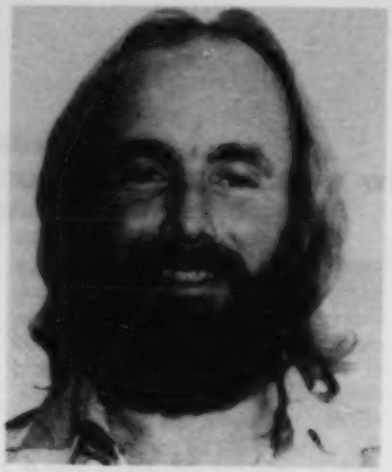

Photograph taken 1975.

Jackie Lee Lindsey

Jackie Lee Lindsey, also known as Jack Lindsey, Jack L. Lindsey, Jack Lee Lindsey, Jackie Lindsey, "J," "Jay," Jumpin' Jack, Jumping Jack.

Wanted For:

Interstate flight—Murder.

The Crime

Lindsey, who is believed to be heavily armed with automatic weapons including .380-caliber and .22-caliber pistols, is being sought for the shooting murder of a Missouri police officer. While stopped for a routine traffic stop, Lindsey allegedly opened fire and shot the officer in the head, killing him instantly. Lindsey is also being sought by Missouri authorities for the sale of a controlled substance.

A Federal warrant was issued for Lindsey's arrest on August 18, 1978, at St. Louis, Mo.

Criminal Record

Lindsey has been convicted of selling a controlled substance.

Description

Age	32, born June 17, 1947, St. Charles, Mo.
Height	5'10".
Weight	160 pounds.
Build	Slender.
Hair	Dirty blond or light brown.
Eyes	Blue or green.
Complexion	Fair.
Race	White.
Nationality	American.
Occupations	Heavy equipment operator, hoisting engineer, operating engineer.
Remarks	Reportedly alters style and color of hair, as well as beard and mustache; wears turquoise rings and bracelets.
Social Security No. Used	488-48-3158.
FBI No.	325, 464 Pl.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Caution

Lindsey is to be considered heavily armed and extremely dangerous.

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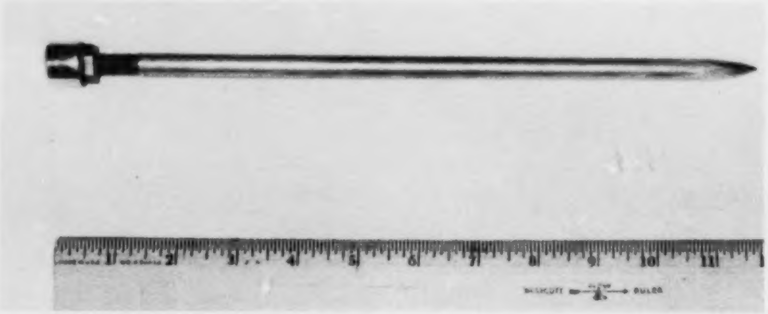

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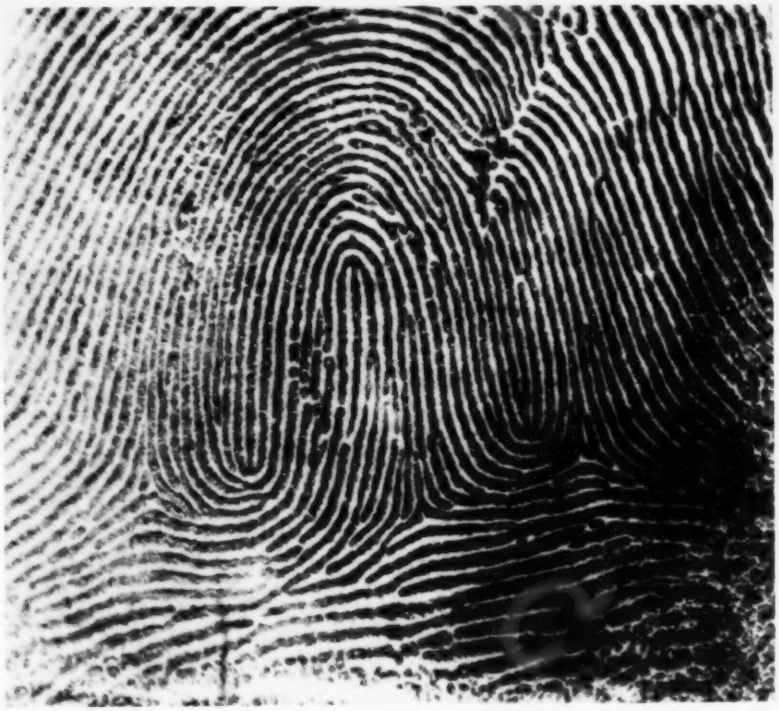

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William H. Webster, Director

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WARNING
THIS NEIGHBORHOOD IS
PROTECTED
BY
BLOCK
WATCH
CRIMINALS
BEWARE
NEIGHBORHOOD
WATCH
Crime
Resistance

Residents participating in the block watch program. Signs are placed at end of participating blocks.

Neighborhood Involvement

By SGT. JOHN G. RYE
Commander
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Birmingham, Ala.

Fear of crime is one of the deadlier aspects of criminal activity—deadlier, not necessarily to the victim of a specific crime, but to the community as a whole. It is nourished with each crime committed. Its consequences are more pervasive than the effects of any actual crime. It is an intangible whose cost cannot be allocated to each crime committed, yet its overall cost can be seen in the decline and deterioration of any community. Citizens perceive crime to be more encompassing than it actually is. They are afraid to visit and conduct business in the central business district of any city. Businesses relocate because of lost income, higher costs, or real or imagined danger. Fear of crime is a cancerous growth which affects the whole fabric of society. Like cancer, it is not always recognized or treated until it is too late.

POLICE BULLETIN

Sergeant Rye

Chief Myers

Reduce the Fear of Crime—Create an Informed Public

The Birmingham Police Department has adopted the philosophy that it is just as important to reduce the fear of crime in the city as it is to reduce the actual level of crime. Upon entering office, Chief Bill R. Myers established the following goals for the department:

1) Reduction of crime through community involvement.

2) Reduction of fear of crime.

3) Solicitation of information and ideas from the public which would increase the efficiency and effectiveness of the department.

4) Involvement of the community in the police function, and

5) Improvement of the department's image.

Just as the military has recognized the need to control rumors in order to maintain morale, there is a need to control rumors concerning crime. One story about a crime, spread from mouth to mouth by different citizens, becomes a crime wave to each one, touching their lives. As in any other situation, the best method for sinking a rumor is to use the truth.

To this end, the goal of the Birmingham Police Department has been to create an informed public. Our department maintains that in order to eradicate the rumors, myths, and half-truths surrounding the level of crime in our city, there must be public involvement. We must reach out to citizens at all levels of our society and the best method for reaching people, getting them involved, developing an effective program, and keeping them informed is through neighborhood involvement—getting the facts about crime home to people at their homes.

We must make people aware of the situation in neighborhoods. Who are the victims, i.e. what characteristics of each victim make them unique? When are the crimes happening—is there a pattern as to the time of day, day of the week, or month? Where are the crimes taking place? Are they occurring in the home? What geographical (locale) factors are involved in each crime? By opening channels of communication and making citizens aware of crime in their neighborhoods, we cut through the clouds of fear of the unknown that cause them to believe that crime is omnipresent. We remove the unknown quality of crime by making people aware of the crime in their neighborhoods and advising them of the measures being used to combat the different types of crime, both citywide and in their respective neighborhoods. But if such a program is to be effective, it must involve citizens as well as the police.

As a starting point, the Birmingham Police Department explored the possibility of using the existing structure within the framework of city government, with an eye toward establishing a program of neighborhood involvement. Then methods of extending our reach were sought. This required the assistance of agencies far down the ladder of the community's structure—down to each block within the city, if possible.

Methods

The mayor of Birmingham established a Police/Community Relations Committee within his office. All members of that committee are appointed by the mayor. At present, the committee consists of 16 members, 11 of whom are permanent members with as diverse backgrounds as those of our city's population. The chief of police, two other members of the police department, a representative of the mayor's office, and a representative of the Community Development Department also meet with the committee. The committee does not act as a civilian review board on matters of police conduct or procedures, but operates with the purpose of maintaining the lines of communication between the citizens and the police in order to promote better understanding and cooperation between the two groups. The committee meets every other week and discusses matters which concern the whole city. It acts as a clearinghouse of information and as an advisory board to the mayor and chief of police. The committee seeks ways and means of promoting better understanding and more involvement by citizens and officers through such programs as its newly instituted "Officer of the Year" and "Neighborhood of the Year" awards. These awards are presented to the officer and neighborhood who have contributed most to promoting better understanding in the field of police/community relations.

The Birmingham Police Department consults this committee regularly in an effort to discover what matters relating to the activities of the police department and crime most concern the overall community.

Another existing agency within the city government is the citizen participation program. Under this program the city is divided into 21 major communities which are subdivided into 90 neighborhoods, with several neighborhoods comprising a community. Elections are held at the community and neighborhood level, with individuals from these respective groups running for the offices of president, vice-president, and secretary. The citizen participation program functions through three committees, one of which is the Citizens Advisory Board which consists of the presidents of all the citizens' community committees. This board maintains a standing committee which parallels those of the mayor-council form of government in the city. The board meets bimonthly and relays the concerns of these committees to the council. With the Police/Community Relations Committee, the board discusses methods of resolving problems that concern both the department and the various communities and brings these matters to the attention of the city fathers and the department. Just as information flows from the board to city government, information from the city government and the police flows to the board and its members.

Residents of local neighborhoods sign in at the information desk during a community-level crime prevention program.

Officer discusses shoplifting and forgery with young residents of a neighborhood.

The Birmingham Police Department operates out of four major precincts—north, south, east, and west. Each precinct has created a police/citizen precinct meeting, which parallels the existing community committees in that its basic members are the presidents of all the neighborhoods within the geographical boundaries of each precinct. The fact that police precinct boundaries and boundaries of the citizen participation program overlap has not presented any problem since the department's aim is at the precinct neighborhoods. Also attending police/citizen precinct meetings are the precinct commanders, each shift commander, and the precinct police crime prevention officer (PCPO). These committees meet quarterly at their respective precincts to discuss problems within the neighborhoods.

A Team Approach To Involve the Public

In the beginning, these meetings were stilted affairs, with reservations shown by both the police and citizens. As time progressed and each party came to know, respect, and understand each other, the meetings became lively and candid. The meetings became sessions of "tell it like it is" and "how can *we*, together, resolve the issues confronting *us*?" A team approach to problem solving is stressed with officers and citizens as equal partners. Emphasis is placed on the realization that unless citizens share the burden and participate actively in the police function, effort expended by the police will result only in half-measures toward reducing crime. Another important phase of each meeting is determining from the neighborhood leaders what problems they and their constituents believe they are experiencing during their daily dealings with police officers. Do they feel that their respective neighborhoods are getting the kind of police service they want and need? What types of services or responses do they want and expect from the department? Do their expectations of police-rendered services actually fall under the realm of the police function? How can the police provide better service? The questions are discussed in an endless effort of self-examination and explanation of factors involved in individual situations.

During these question-and-answer sessions, the nature of crimes occurring throughout the city and how such criminal activity is affecting respective neighborhoods are covered. The Crime Analysis Unit furnishes each precinct and each neighborhood president with the latest information on the criminal activity in his area, along with a monthly recap of the latest statistics. This information is explored as thoroughly as possible at the precinct meetings to insure that a clear picture is being presented. Measures being used to combat a particular problem area are explained, and at the next meeting, the effect of these measures is discussed.

These meetings are also used for the purpose of developing initial contacts between the PCPO and the community. Each of the precincts has a PCPO who is a civilian trained in crime prevention. He explains and coordinates the progress of the various departmental programs aimed at aiding citizens in reducing the opportunities for crime in their neighborhoods and decreasing the possibility that they may become victims. At this time, the PCPO presents to the neighborhood presidents any new or additional information concerning such activities and makes appointments for followup at the monthly Neighborhood Citizens Committee meetings.

The basic element of the citizen participation program is the Neighborhood Citizen Committee, which consists of residents within that neighborhood. Each neighborhood elects a president, vice-president, and secretary to preside over the meetings. The tenure of each of these positions is 2 years. For each Neighborhood Citizen Committee there is an advisory group selected by the president in consultation with the vice-president and secretary. The advisory group's purpose is to keep the elected neighborhood officers aware of local citizens' feelings on issues affecting the neighborhood or city. The Neighborhood Citizens Committee, guided by its elected officers and the advisory group, analyzes its own area in order to maintain a current listing of local problems, priorities, goals, and objectives.

Neighborhood meetings, which are scheduled monthly, are regularly attended by the precinct commander, shift commander, district sergeants, beat officers, and the precinct's PCPO. Here the people get to know the officers regularly assigned to their neighborhoods and the officers get to know the people who live on their beats. The beat officers inform the citizens of the crimes occurring in their area. This exchange of information leads to a better understanding between the officers and citizens. The beat officer tells when and where particular crimes are occurring and what measures citizens can take to prevent themselves from becoming victims. Neighborhood residents also keep the officers aware of things happening in the neighborhood. Though some officers feel that these meetings place an unnecessary burden on them, most find that such interactions are beneficial. There has been some reluctance on the part of some citizens to participate, because they believe that they should not become involved in the police function. Yet, on the whole, the response has been positive—barriers between people and the police have been removed.

During the course of the neighborhood citizens meetings, the PCPO details current departmental crime prevention workshops that have been scheduled and goes into detail about the block watch program.

The block watch program is designed to get citizens involved in helping the beat officer protect their neighborhoods. The PCPO presents a general outline of the program and then schedules appointments for meeting with interested residents in their homes.

The basic element in the block watch program is one neighborhood block. The PCPO sets up a date for a meeting at one house on a given block and has as many residents of that block attend the meeting as possible. The PCPO explains the fundamentals of the block watch program and schedules subsequent meetings at interested citizens' homes. Beat officers are introduced to the residents of that block. The officers make the citizens aware of the level and type of criminal activity occurring in their area and what steps can be taken to reduce opportunities for crime. This very basic level of involvement between beat officers and residents of one city block is the foundation of neighborhood involvement. Emphasis is placed on individual rather than direct action by citizens when they witness a crime. The PCPO assists the residents in developing their own neighborhood block watch program. Block captains, who function primarily as coordinators of the program, are elected. For such a program to be successful, it must be emphasized that the citizens run the program. The block watch committees hold monthly meetings attended by the PCPO's and the beat officers. Again, the Crime Analysis Unit furnishes statistical information about criminal activity within the parameter of the block participating in the block watch program. Signs at the ends of blocks warn potential criminals that "this block is under the protection of a block watch program and any criminal activity and all suspicious persons will be reported to the police." Decals and placards are placed on the windows of participating residences. An available form allows citizens to report suspicious persons or vehicles wandering through their neighborhoods. This form goes directly to the beat officer.

A public information officer discusses various aspects of crime prevention with neighborhood residents during a community development crime prevention program.

The block watch program is new to Birmingham, and because of its nature, it covers thousands of block-sized units. It takes a great deal of time and effort to establish; however, in those blocks which have subscribed to the program, the effect has been dramatic. In several instances when a neighborhood with a high crime rate created a neighborhood block watch, the rate actually dropped to zero. Such figures effectively demonstrate that the program does work and that neighborhood and citizen involvement does pay high dividends both to the community and the police department. It reduces the fear of crime—people know what's going on in their neighborhoods because they have the facts at hand. Rumors have no chance to grow. The community regains its vitality because the fear of the unknown is no longer present. The unknown has become a known entity with which one can deal.

Because such citizen involvement reduces the opportunities for crime, the actual crime rate declines. People know what measures can be taken to reduce the chances of their becoming victims.

By attending the various citizen meetings and using the structure within the city government, information and ideas for increasing the effectiveness and efficiency of the department are forthcoming. Knowing what the community wants, expects, and needs of the department allows for better allocation of manpower and other resources.

Attending citizen meetings on the smallest scale, establishing programs for citizen participation, and assisting citizens in participating in these programs, allows the community to become involved in the police function. The most important aspect of these programs, committees, and meetings is that they are citizen-dominated. In order to thrive, they must be nourished by active citizen participation.

Finally, when the results are tabulated and the facts point toward more active people involvement, the perception of the department in the community has only one way to go—up. **FBI**

Management Control

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The task of management is frequently subdivided into the following component parts: Planning, organizing, directing, staffing, and controlling. The management function of control, perhaps befitting its position as the last function listed above, is generally less understood and honored than the other managerial processes. There are many different interpretations of and misgivings about the concept of control. Yet, despite the many misconceptions about the nature of control, there is general agreement about its definition. Henri Fayol's definition in 1916 is still commonly accepted today.

> "In an undertaking control consists in verifying whether everything occurs in conformity with the plan adopted, the instructions issued and principles established. It has for object to point out weaknesses and errors in order to rectify them and prevent recurrence. It operates on everything, things, people, actions."[1]

The American cultural value of individual freedom is supposedly threatened by any form of control. Highly simplified, the argument goes that freedom is good and control is bad. Although most people are reluctant to admit it, they probably prefer some degree of control in their lives to give them some stability and continuity and to contribute to their general well-being and safety. Yet, the negative connotation of control still exists; it is amplified by the methods in which controls have been traditionally devised, implemented, and used in both private sector and governmental organizations. Here, we discuss the traditional management control strategies, with particular emphasis on the behavioral implications of these strategies. Motivation theory will also be addressed. Familiarity with such theories may assist law enforcement executives in unleashing the potential of their subordinates, while establishing an organizational climate of self-control and optimum productivity.

A Traditional View of Control

Many managers view control as the managerial means to insure that objectives are implemented. This process is normally accomplished by establishing policies and procedures and measuring and providing feedback on performance.[2] The process of establishing policies and procedures is related to the concept of control as direction. The father of scientific management, Frederick Taylor, believed that it was a primary responsibility of management to learn the best method and procedures for accomplishing work, prepare written instructions detailing these procedures, and carefully train selected workers in these procedures. Thus, it was the responsibility of managers, and not employees, to provide clear and understandable policies and procedures that would insure the accomplishment of objectives.

Through Motivation

The distinctions between policy, procedure, or rule are not always clear and are not really central to our discussion. Broadly stated, policies, procedures, and rules set forth guidelines for making decisions, specify ways for carrying out tasks, and provide regulations that require or prohibit certain behavior. What is important is that managers devise policies and procedures that help employees accomplish objectives. In their early years and while they are relatively small, most police departments, or for that matter virtually all organizations, require very few policies and procedures. Gradually, as the department grows and becomes more complex, the need for policies and procedures becomes more pronounced. It is just not efficient or economically feasible to continue handling every problem as unique. The organizations decide to develop some policies that trade upon experience and give guidance to people facing similar problems for the first time. Today, many departments not only rely on their own experience but hire management consultants and staff specialists to analyze the experiences and innovations of other departments to see if they are applicable to their own department.

Even though the development of policies and procedures is inevitable, and in spite of the advantages just discussed, it is equally inevitable that problems will evolve as a result of these policies and procedures. Unless management is careful to avoid providing too much direction, these problems or disadvantages can easily outweigh the advantages. In this era of rapid change and advanced technology, the idea of planning for and controlling every contingency is not feasible. Above all else, police departments must be flexible and adaptive to the environment. Police managers and patrolmen must use discretion in handling unique or unforeseen incidents. Too much direction leads to an inversion of means and ends. Some people regard plans and procedures as an end in themselves, without regard to their contribution to organizational objectives. Many people feel that this "by the book" mentality is essentially synonomous with bureaucracy.

A final difficulty with control through policies and procedures is the continuing necessity to insure that they are up-to-date. Outdated and improper policies can be a strong demotivator. Some management consultants recommend periodically burning all policies and procedures, and after a few weeks, carefully assessing the situation to determine which policies are really needed and which should be eliminated.

The second control process, measuring performance and providing feedback, has its roots in the concept of control not as direction but as verification—checking to see if activities conform to predetermined direction. This approach involves developing and administering measures of key activities that will discover and determine if objectives are being fulfilled. Elaborate budgetary techniques, management audits, time scheduling techniques such as PERT (Program Evaluation and Review Technique), computer technology, and management information systems have the capacity to provide police managers with voluminous amounts of accurate, complex information in a timely fashion. Crucial to the effectiveness of such approaches, however, is choosing what to measure. How well the measurements are designed makes a difference in how much they can help the organization reach its objectives. Probably one of the most damning, but accurate, complaints about management by objectives, at least with respect to the way it is frequently implemented, is the seductive urge to concentrate on that which is quantifiable at the expense of that which is important. If control systems are to avoid being counterproductive, both from an organizational effectiveness standpoint and from a motivational perspective, they must highlight links between effort and performance.

Research on the effects of control systems upon motivation and behavior leads to the conclusion that completeness, objectivity, and responsiveness to employee effort and performance are desirable and necessary qualities of the performance measures.[3] Employees perceive that measurements define important aspects of the job. They assume that what is counted is what matters. As Harold Hook, the president of American General Insurance Company, states, "A company gets what it inspects, not what it expects."[4] In a 1963 report, P. M. Blau comments that law enforcement officials who are assigned an established caseload and a quota for clearing cases pick easy or fast cases toward the end of each month if they anticipate falling short of their quota.[5] Several studies document how employees will make sure, by fair means or foul, that measurements will register at satisfactory levels. The performance measures selected for the control system can, in fact, change the behavior of employees, and if the measures are not a valid indicator of performance, this change in behavior may well be dysfunctional.

Feedback is an integral part of control through the use of performance measurement. Feedback makes it possible to compare actual and intended performance and to make the necessary adjustments. The popular belief that accurate feedback results in improved performance has not always been supported by research studies.[6] Additionally, the effectiveness of feedback can vary depending on who or what provides it. Most individuals seem to find the task and themselves the preferred source.[7] Supervisors often make a poor source of feedback. "Critical feedback from supervisors in a performance appraisal system tends, indeed, to provide more stimulus to defensiveness than to improve performance."[8] In short, feedback can be both valuable and risky.

Control Through Motivation

Now that the possibilities of controlling the behavior of people in organizations through policies and procedures and through performance measurement and feedback have been discussed, it is necessary to consider the motivational processes of individuals and see how police managers can apply this knowledge to control the behavior of their personnel. According to motivation theory, people have certain needs and beliefs or expectancies about whether or not various ways of behaving will lead to satisfaction of these needs. Within us all, mental and emotional processes are at work to determine how we will behave. This article will briefly review some of the major theories of motivation in order to assist in understanding this psychological process.

"Feedback is an integral part of control through the use of performance measurement."

Maslow's Hierarchy of Needs

In a classic work in the 1940's, Abraham Maslow outlined an overall theory of motivation using a hierarchy of needs concept which can be most helpful in explaining the vagaries of human behavior.[9] (See fig. 1.) A basic assumption of the theory is that all behavior is goal-directed. The desired goals represent satisfaction of basic human needs. These needs are arranged in a hierarchical relationship with the lowest needs being prepotent. According to the theory, people are always in a state of want, but what they want is a function of the pattern of need satisfactions within the hierarchy. Lowest-level needs are predominant until they are at least partially satisfied, at which time higher-level needs emerge and become the energizers for future behavior. Maslow states that a satisfied need is not a motivator of behavior.

Just as satisfied needs move people up the hierarchy, unsatisfied needs move people back down the hierarchy to their basic physiological and safety needs. Thus, a young police lieutenant with a graduate degree and virtually unlimited career advancement potential is probably operating normally at a level of ego/esteem need satisfaction or self-actualization. However, if he were captured by a group of terrorists and involved in a lengthy hostage situation, within a relatively short time his behavior would be directed toward the satisfaction of basic physiological needs, as well as the maintenance of his safety and that of the other hostages.

Although Maslow did not intend that his theory be directly applied to work motivation, the need hierarchy can be roughly converted. (See fig. 2.)

The research conducted to validate Maslow's model has had mixed results, and most likely, the model is not the final answer in work motivation. However, the model does serve one very significant purpose—to make managers more aware of the diverse needs of people at work.

Herzberg's Two-factor Theory of Motivation

Frederick Herzberg extended the work of Maslow and developed a specific theory of work motivation. Using what is known as the critical incident method, Herzberg has posed the following to the many different types of workers—professional and manual.

> "Think of a time when you felt exceptionally bad about your job, either your present job or any other job you have had. Tell me what happened. Conversely, think of a time when you felt exceptionally good about your job . . . and tell me what happened."[10]

The responses obtained were fairly consistent. When people were describing good feelings, they were generally associated with job experiences and job content, and bad experiences were generally associated with the environment in which the work was accomplished. Herzberg states that what makes people feel good and bad about their work are two separate and distinct factors. The good factors are called motivators; the bad factors, hygiene. (See fig. 3.)

Herzberg's theory is closely related to that of Maslow. The hygiene factors are preventative and environmental in nature and are roughly equivalent to Maslow's lower-level needs. These factors are important because they prevent dissatisfaction and almost certain poor performance, but they do not lead to feelings of satisfaction and consequent high performance. Herzberg believes that a person must be given a task to perform which is challenging and meaningful to him in order to be motivated.

Herzberg's theory has also been heavily criticized by academicians and practicing managers. The most serious criticism would appear to be with the methodology employed. When researchers depart from the critical incident method (describing one instance when they felt either particularly good or bad about their job) used by Herzberg, they generally obtain results which are quite different from those the two-factor theory would predict.[11] An additional point of controversy over Herzberg's theory is the listing of salary or pay as a hygiene factor. Herzberg states that pay is the most important hygiene factor, but many people feel that even this preeminence among hygiene factors may be an overcorrection for many workers. In other words, pay can be and is a motivator for many people. A study by Lawler in the early 1970's has shown that money can be a powerful motivator for some people.[12] Still, Herzberg's work is extremely valuable to practicing managers because it provides an understanding of job-content factors and worker satisfaction.

Figure 1.

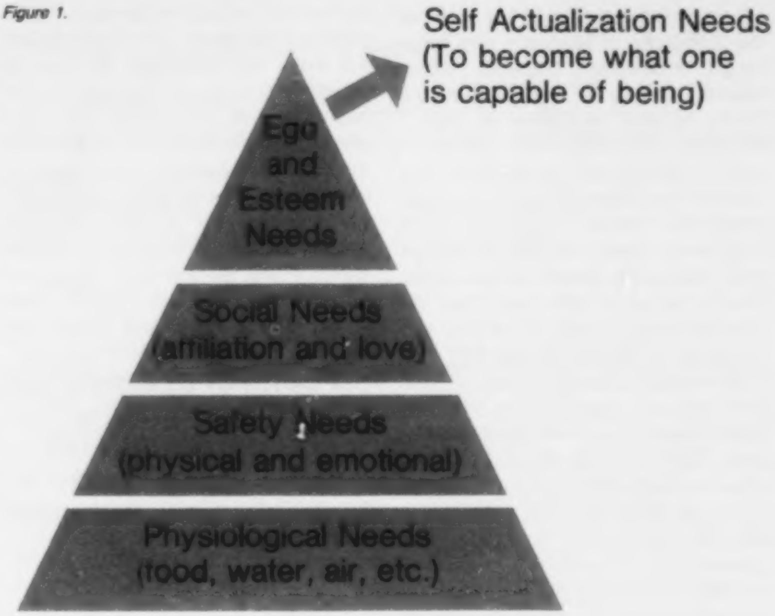
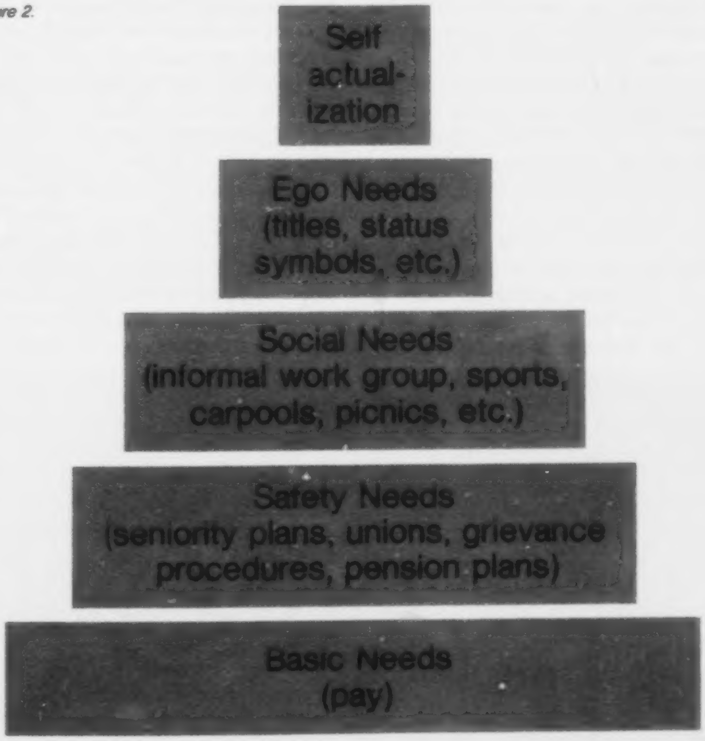

Self Actualization Needs
(To become what one
is capable of being)
Ego
and
Esteem
Needs
Social Needs
(affiliation and love)
Safety Needs
(physical and emotional)
Physiological Needs
(food, water, air, etc.)

Figure 2.


Self
actual-
ization
Ego Needs
(titles, status
symbols, etc.)
Social Needs
(informal work group, sports,
carpools, picnics, etc.)
Safety Needs
(seniority plans, unions, grievance
procedures, pension plans)
Basic Needs
(pay)

Expectancy Theory of Motivation

In an attempt to address some of the limitations of Maslow's and Herzberg's motivation theories, Victor Vroom proposed the expectancy theory of work motivation in 1964.[13] Presently, there are many models of work motivation built around the concept of expectancy theory. Most academicians have embraced the expectancy theory because they feel it more adequately describes the motivational process of individuals than the more simplistic models of Maslow and Herzberg. It should be recalled that Maslow and Herzberg believed that all behavior was goal-directed and that these goals represented satisfaction of basic human needs. By way of contrast, the expectancy theory states that a human being is both emotional—seeking satisfaction of needs—and reasonable—thinking through what alternative actions will satisfy needs—at the same time. In effect, we try to predict the consequences of our behavior with respect to the payoffs we will receive, i.e., there is a cognitive aspect of behavior. Basic to the cognitive view of motivation is the notion that individuals have cognitive (subjective) expectancies concerning the outcomes of their behavior and have preferences among these outcomes. Thus, people have an idea about possible consequences of their acts and make conscious choices among consequences according to their probability of occurrence and their value to them. "Thus for the cognitive theorists it is the anticipation of reward that energizes behavior and the perceived value of various outcomes that gives behavior its direction."[14]

For example, consider the situation of a young patrolman studying for a sergeant's exam. The night before the exam the patrolman is trying to decide how to spend the evening. He has a number of choices. He could stay home and study, go to the local gym and work out, go to the neighborhood bar, or take his girl to the movies. Each choice will produce its own payoffs for the patrolman. The one he chooses will be the one which will provide the greatest payoffs with respect to his needs and values. The patrolman is likely to have a sense of achievement as a result of studying for the exam, and if he believes (his subjective probability) that studying for the exam will lead to a high grade and he values a high grade and the expected resulting promotion, it is very likely that he will spend the evening in study. It may be that in addition to a need for achievement, the patrolman also has a strong need for affiliation. In this event he could satisfy both needs by studying with other officers preparing for the exam. However, if the officer does not believe (subjective probability) studying will have any effect upon his grade or if he places little or no value on achieving a high grade and possible promotion, there is very little likelihood that he will study.

"If control systems are to avoid being counterproductive, . . . they must highlight links between effort and performance."

The expectancy models can become quite complex and frequently involve mathematical equations and formulas to predict behavior. This complexity and quantifiability are obviously attractive to academicians and simultaneously tend to scare off practicing law enforcement executives. This is most unfortunate. Obviously, people do not become mathematicians to figure out their every act, but this does not mean that expectancy theory is of no value. In real life, people trade upon their experience and knowledge to make quick, subjective estimates of the payoffs resulting from various behaviors. The true value of expectancy theory lies in highlighting the reasoning side of people—the cognitive side of behavior. Generally, if managers can cement the link between task performance and need satisfaction, they raise the probability that employee efforts will be committed to organizational goals and objectives. Managers are employed to assist in realizing organizational objectives, and their effectiveness depends upon the cooperation of their subordinates. They must clarify for subordinates the paths of behavior that will fill the subordinates' need satisfaction and insure these paths are parallel or complementary to attainment of organizational goals.

The central notion of expectancy theory is that people will act in a particular way as a function of how certain they are that the act will be followed by a reward and what value that reward holds for them. The reward must be contingent upon performing specific acts which are organizationally desirable. Management, thus, is able to control organizational behavior by the design and administration of reward practices. By insuring that rewards are linked to organizationally desired behaviors and that the paths to these rewards are clarified for subordinates, management can establish real control of their organization.

Conclusion

We have reviewed the control process from the perspectives of establishing policies and procedures and also from measuring and providing feedback on performance. Additionally, we have discussed the complex psychological process of motivation in order to gain some insight into why people behave in certain ways. The first two approaches can be of invaluable assistance to law enforcement executives in controlling the behavior of their organizational members, but simultaneously, the limitations and potential disadvantages of these approaches must be considered. The desire for control and uniformity based on policies and procedures must be balanced with the necessity of allowing decisionmakers some flexibility when confronted with new and unanticipated situations. The accelerating nature of societal changes serves to guarantee an increasing number of such situations in the future. Policies and procedures essential to the efficient operation of the department must be regularly reviewed—at least annually—to guard against dysfunctional behavior and negative impact on members' motivation. Similarly, when measuring the performance of police officers, executives must insure that the elements measured correlate strongly with effort expended and performance achieved. Departments must measure the important elements of performance and not just those elements which lend themselves to measure.

Police executives can enhance their ability to achieve organizational objectives and control individual performance by understanding motivational processes and applying this knowledge to work situations. By designing and administering the reward practices (pay, promotions, assignments, etc.) of the organization so that they are obvious rewards of superior performance, managers can increase the probability of receiving satisfactory performance. Officers will discipline their own behavior with self-control to increase their opportunities to receive organizational rewards. As Drucker states, "People act as they are being rewarded or punished."[15] Management control of the behavior of organizational members can be greatly enhanced by an understanding of the motivational processes and by applying this knowledge on the job. **FBI**

Figure 3.

Herzberg's Two-factor Theory of Motivation

HYGIENE FACTORS	MOTIVATORS
Company policy & administration	Job itself (meaningful and challenging)
Interpersonal relations	Recognition
Working conditions	Achievement
Supervisory practices	Responsibility
Salary	Advancement

Footnotes

[1] Henri Fayol, *General and Industrial Management*, trans. Constance Stors (London: Sir Isaac Pitman and Sons, 1949), p. 107.

[2] David R. Hampton, Charles E. Summer, and Ross A. Webber, *Organizational Behavior and the Practice of Management*, 3d ed. (Glenview, Ill.: Scott, Foresman and Company, 1978), p. 525.

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[4] Harold Hook, "Catchwords Become a New Management Technique," *Business Week*, December 15, 1975, p. 77.

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Measuring Blood Alcohol Content

The Law Enforcement Standards Laboratory of the National Bureau of Standards has established a performance standard for collection/storage devices used by police to obtain breath samples from people suspected of driving while under the influence of alcohol. The standard was developed for the National Highway Traffic Safety Administration (NHTSA).

Since breath samples are subsequently analyzed to determine blood alcohol content, the devices used must be capable of collecting a deep-lung breath sample and be able to store the sample for extended periods without degradation in order to meet performance requirements and test methods. Once the standard is published, the NHTSA will use it as the basis for establishing a qualified products list that State and local governments will rely on to purchase equipment with Federal fu[illegible] **FBI**

THE ASSESSMENT CENTER:

Is it the Answer?

By CARROLL D. BURACKER
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Fairfax, Va.

During the past two decades, law enforcement personnel have demonstrated an ever-increasing concern for equal promotional opportunities. Court decisions and employee dissatisfaction have caused police administrators to reassess traditional methods of promotion and to focus more attention on the need for upward mobility procedures. Today, police administrators across the Nation are finding that employees are more demanding in terms of opportunities for career enhancement. What was once accepted as the "system" is no longer satisfactory. Today, the ubiquitous question of "why?" is more prevalent than ever. Court challenges and personnel grievances present the administrator with vexing problems. On the one hand, the administrator needs to identify the most qualified candidates within the organization; on the other, he must be responsive to the employees' concepts of fairness, especially when decisions affecting careers are made.

For the most part, police promotions throughout the country have centered around three primary processes: Written examination, performance evaluation, and oral examination. Of course, processes employed by police agencies are often dictated by local civil service rules or State regulations. Therefore, before commenting on the assessment center employed by the Fairfax County Police Department, an overview of traditional exercises is necessary.

Written Examination

Written examinations have been the most frequently used method for testing police officers for promotion. In large police agencies, it is impractical to interview hundreds or thousands of employees; hence, the written examination is used to reduce the number of eligible candidates before further evaluation. The fundamental purpose of the written examination is to conduct an inventory of job knowledge. The written examination allows the police manager to get an idea of how knowledgeable a candidate is in a certain field—whether it is supervision, planning and organization, or criminal law.

The written examination has come a long way in the 1970's. A number of police departments moved ahead voluntarily in improving their test instruments. In other cases, changes were forced by court challenges. In any event, written examinations appear to have made quantum leaps forward in the past several years. It is believed by some that job-related issues are at the core of employee dissatisfaction with written examinations. If the examination is developed through job-analysis validation techniques and relates to specific functions to be performed at a given level, there is less possibility that the written examination will be challenged. In large organizations, a validated written examination is still necessary to reduce the number of candidates for subsequent participation in an assessment center. In small departments, where there are not more than 40 eligibles, for example, a written examination can be optional. Fairfax County did not use a written examination for the ranks of major and captain.

Oral Examination

The subject of oral boards has produced more acrimony than any other issue relating to promotions within police agencies. The concept has friends and foes based, in part, on previous experience and rumors. The critics of oral boards point to the impossibility of evaluating a candidate for promotion with a 15-minute to an hour interview. Criticism of this process has some foundation. Often, police oral boards are assembled without specific training with respect to tasks, questions, or rating. In other processes, there are well-documented booklets on what to look for in conducting an oral examination, the issues to avoid, etc. I define oral board as a "duly constituted panel of expert examiners assembled to assess the relative potential of an employee." Of course, the central issue is "expert examiners." In many police agencies around the Nation, oral boards consist of internal and external staff officers or members of the community who have had little or no training on what to evaluate when interviewing an employee.

The questions in oral examinations are as important as those in the written examination. Again, the term "job-related" surfaces. The candidate should not be asked to identify the first man to walk on the moon. Rather, a more appropriate question to ask would be if he, as a police supervisor/manager, would establish a policy that would tolerate speeding violations.

Performance Evaluation

Most police officers want to be evaluated by their superiors, just as most supervisors want to evaluate their subordinates. Therefore, it has been difficult for police managers to establish a promotional process without this phase. In a small police department, evaluations may be more effective than in a large police agency which has decentralized operations. For example, individual commanders may have different standards for evaluating employees. The manager, then, is confronted with different reference points being applied to evaluations. The ideal is to have employees ranked from low performers to high performers, with the average in between. Evaluations, however, tend to be grouped in such a tight pattern that they become irrelevant in determining suitability for promotion. Police managers around the country have voiced this problem, and although some departments have tried training supervisors in order to establish a benchmark or reference point for evaluations, these training programs have marginal impact. However, work performance should be considered in the promotion process.

Emerging Examination Process

The Fairfax County Police Department has employed written and oral examinations and performance evaluations. To a large extent, it is felt that the promotion processes have been fair and sound. (See *FBI Law Enforcement Bulletin*, May 1976.) For selection of investigators, the department introduced a mock crime scene as part of the process to measure ability. For supervisors, though, it is believed that the recent establishment of an assessment center to identify managerial potential is a far better approach than traditional practices. The assessment center concept, although relatively new in law enforcement, has existed in private industry for many years. The FBI has made considerable use of the assessment center for selecting supervisors and middle managers.

". . . a candidate should be evaluated on administrative skills, decisionmaking, and personnel development."

The Fairfax County assessment center experience began in January 1978, at the rank of major. A year later, the department expanded the concept to include the rank of captain. Employees tested in the assessment center were pleased with the process and did not indicate any displeasure with the result. Surely not all were happy with the outcome in terms of rank order, but they appeared satisfied that the approach taken by management seemed to be an improvement in identifying potential.

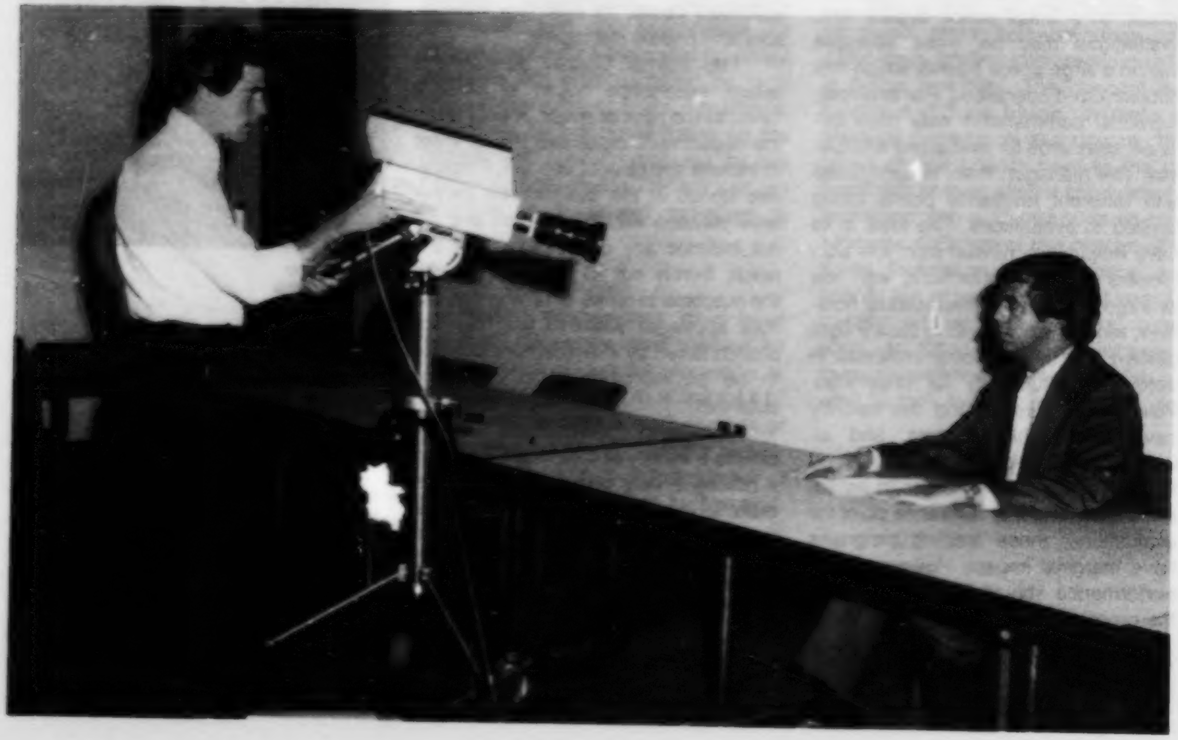
The term "assessment center" carries a variety of meanings. To some it means a very complex set of exercises to evaluate personnel; to others, a fairly simple process involving several techniques. In fact, it can mean both

Deputy Chief Buracker

Richard King
Chief of Police

A candidate completes in-basket exercise.

A candidate is filmed during a simulated press conference.



depending on the sophistication of techniques employed, the dimensions to be measured, the quality of personnel administering the process, and of course, the testing instruments. While the oral board can determine, to some degree, an employee's relative potential, the assessment center offers a multidimensional approach toward evaluating an employee. However, the written examination should not be abandoned solely for an assessment center. The written examination, if validated, offers a very good way to inventory job knowledge and reduce the number of candidates in large departments. At the command level, written examinations become less important because command-level assessment centers, if properly structured, can be used to inventory job knowledge.

Although there are variations in the application of assessment centers, the Fairfax County experience involved three main components: 1) Group oral, 2) in-basket exercise, and 3) oral presentations.

Group Oral

The group oral, also called leaderless group discussions or multicandidate orals, proved to be a good technique for evaluating personnel. In Fairfax County's assessment centers, candidates were given several written problems to discuss among themselves, and in the exercise, were told to take the position of a task force convened by the police chief to discuss an issue.

In the group oral, it was not necessarily the most vocal or the most reserved person who received the highest grade. Candidates who were able to articulate responses to a question in a concise, well-defined manner and who took the leadership role emerged as the top candidates.

Assessors were trained to look for the emergence of leaders who could demonstrate knowledge of the issues and identify possible solutions to the problems. The substance of their comments was the most important point.

While participating as an assessor in other agencies, I have observed candidates in group orals sit almost speechless throughout the entire process. Yet, these same candidates had a good written test score. Without the group oral, these candidates would have become supervisors.

In the group oral segment in Fairfax County, the assessors were to evaluate the following dimensions on a scale of 0 to 5. (Each dimension had been clearly defined.)

1) Command presence,
2) Commitment to service,
3) Oral communication,
4) Factfinding,
5) Flexibility,
6) Interpersonal sensitivity,
7) Problem analysis, and
8) Work perspective.

Exercises for the group oral were stated clearly and briefly. Moreover, the issues were job-related and embraced the spectrum of responsibilities for the rank the candidates were seeking. The questions did not center exclusively on administrative or operational activities. Ideally, a candidate should be evaluated on administrative skills, decisionmaking, and personnel development. In selecting personnel for staff-level positions, it is important to keep in focus the fact that an operational lieutenant today may be an administrative lieutenant tomorrow. An example of an exercise for a group oral at the command level is how a candidate would determine where a $400,000 grant would be spent in the municipality if the candidate were a city council member.

In the group oral, each assessor was given two or three candidates to evaluate, depending on the size of the group and the number of assessors. If there were three assessors and six candidates, each assessor would have two candidates. Those candidates evaluated by one assessor in the group oral were not evaluated by that same assessor in the next two phases of the process.

An assessor provides feedback on the candidate's performance.

In-Basket Exercise

The second phase of the assessment center administered in Fairfax County was an in-basket exercise. This process was developed after a job analysis was conducted at the different ranks. Once the range of duties and responsibilities was defined for a given rank, questions were developed to identify the specific skills necessary to accomplish these duties and responsibilities. Again, it was important that the questions be job-related.

Police managers could take problems encountered by them daily and use these as a basis for developing an in-basket exercise by changing names and dates. Of course, such a routine would be for command-level positions comparable to those performed by police managers. The same process, though, can be used to develop the exercises for other supervisory levels.

In our in-basket exercise, candidates were given 10 assignments. Each candidate was asked to assume the role of a certain police supervisor in a given police department. They were given additional facts, such as how long they had been on the police force, who they were replacing, what the next month's schedule was to be, the possibility of leaving town on emergency leave, and other essential facts about the job. The candidates then had to respond to a series of 10 exercises, some of which were several pages in length, and provide responses to those exercises within 1 hour and 15 minutes. The assessor had previously covered the questions with the moderator, and a list of reasonable responses had been identified for each of the 10 exercises. This process achieved consistency in rating by the assessors and was essential in maintaining a fair process.

The Fairfax County in-basket exercise involved the following items:

1) Enforcement policy,
2) A complex internal investigation problem,
3) A personnel problem with an officer,
4) A civic association meeting involving a sensitive issue,
5) A recruit field training form,
6) A request for criminal statistics from the chief suggesting only good information is desired,
7) An issue involving poor police reports,
8) A police officers' association meeting dealing with a sensitive issue that conflicts with another meeting,
9) An awards board suggestion, and
10) A proposed physical fitness test.

These exercises involved conflicting dates and schedules. It was important for the candidate to establish priorities for the activities, recognize the central issues in each case, articulate in writing why the issues were handled in a particular fashion, and what specific action was to be taken on each item. Each candidate had been given a manila envelope containing all of the exercises along with an instructional sheet, paper and pencil, and an outline form to list tasks and priorities.

The second phase of the Fairfax County in-basket exercise involved an assessor interviewing each candidate on a one-on-one basis with respect to the candidate's responses and exhibits from the in-basket exercise. The fundamental purpose of the one-on-one method was to ensure that the assessor could read the candidate's writing and understand specifically what the candidate had said about each point. During these discussions, the candidate was not allowed to change anything he had written.

After each candidate was interviewed, the assessor graded the responses to the in-basket exercise. As noted previously, the assessor did not evaluate anyone he had graded previously.

The dimensions evaluated in the in-basket exercise were:

1) Commitment to service,
2) Written communications,
3) Oral communication,
4) Decisionmaking,
5) Delegating,
6) Followup,
7) Judgment,
8) Planning and organization, and
9) Work perspective.

Oral Presentation

The third phase of Fairfax County's assessment center was the oral presentation. In this process, candidates were assembled as a group and briefed on the specifics of this phase. The candidates were given a set of instructions consisting of two parts. In Part A, the candidates reviewed the facts of a police incident and then presented a press conference in the form of an oral presentation. At the end of the press conference, the assessors asked questions which required the candidate's prompt reaction to sensitive community/police issues. In Part B, candidates prepared an oral presentation describing their qualifications for the rank being sought and their view of the job. The candidates were selected in random order to provide these presentations. The following dimensions were evaluated:

1) Career development,
2) Command presence,
3) Oral communication,
4) Emotional maturity,
5) Judgment,
6) Planning and organization,
7) Work perspective,
8) Followthrough,
9) Interpersonal sensitivity, and
10) Factfinding.

Again, assessors were assigned to evaluate candidates they did not grade during the first two sessions.

To conduct these three phases of the assessment center required approximately 8 hours. The candidates were then assembled and debriefed. They were allowed an opportunity to comment on the process or ask any questions about the exercises. There were no negative comments about the process. Most of the comments centered around the value of the exercise as a learning experience and requests for feedback on the individual's strengths and weaknesses. All candidates believed the process to be much better than the traditional way of evaluating personnel. The Fairfax County chief of police was pleased with the result of the assessment center and used the list as an exclusive eligibility ranking for promotion. The department is planning to use an assessment center for lieutenant and sergeant promotions in the future.

The assessment center is not necessarily suited for every police agency. In promotional exercises, the basic questions for the police manager are: What promotional process seems best to rank eligibles for my department? and what promotional process will be viewed as fair by employees and is unlikely to be challenged? Cost, candidate population, timing, internal dynamics of the organization, and success of past promotional processes are facts to consider before exploring the application of an assessment center. Obviously, there is no need to buy a tank when a revolver will do the job.

In the Fairfax County experience, three major phases were used. A possible fourth phase would involve a one-on-one discussion with a candidate as to his background in law enforcement.

The assessment center offers the police administrator an effective promotional process. The keys to the success of such a program are the quality and training of the assessors, the quality of the examination materials and evaluation instruments, and feedback to the participants relative to their strengths and weaknesses as determined by the assessors in the process.

Having participated as an oral examiner and assessor in the selection of police chiefs and officials in 10 States, I am firmly convinced that the assessment center concept is one which will be viewed by both police managers and employees as a better way of evaluating supervisory potential. **FBI**

CITIZEN INVOLVEMENT IN CRIMINAL JUSTICE

A Crumbling Cornerstone

By SHERIFF WALTER C. HEINRICH
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Sheriff Heinrich

Captain Appel

Modern technology notwithstanding, the personal involvement of crime victims and witnesses continues to be the cornerstone of successful criminal investigation and prosecution. Information or direct testimony from citizens is nearly always critical to solving crimes and prosecuting violators. The criminal justice system cannot function properly without the support of the community it serves. Yet, in contrast to the indisputable need for citizen involvement, victimization surveys conducted across the Nation and published in The National Criminal Justice Reference Service Reports have consistently revealed that 40 to 70 percent of all crimes committed are not reported to the police.

Since the deteriorating partnership between the community and criminal justice did not occur over a short period of time, changing public attitudes may prove to be a long and arduous task. Factors which have generated negative public sentiments toward criminal justice responsibilities must now be identified and corrected with a new sense of urgency.

A victim's or witness' refusal to report crimes or otherwise become involved in criminal justice functions are often rationalized by fear or distrust of public officials, personal inconvenience, and fear of reprisal or harassment. Any or all of the factors may make a victim or witness reluctant to "become involved." The relative importance attached to each usually differs with the individual. However, it is almost certain that one or more of the factors will be present and will be weighed against prevailing circumstances to decide the extent of victim/witness cooperation.

Fear and Distrust

Fear and distrust of public officials (particularly police and courts) have not been entirely the cumulative effect of America's immigrants escaping foreign tyranny. Dual standards of criminal justice, police abuses, and indifference to the concerns of victims and witnesses have also contributed significantly to the problem.

Identifying the root causes of this fear and distrust and implementing corrective measures began more than 20 years ago, and much has been accomplished since then. Courts have repeatedly struck down laws and procedures which were discriminatory, and human rights issues have received extensive judicial attention and support. Dual standards of criminal justice have been virtually eliminated. Within the police segment of criminal justice, a vast majority of law enforcement agencies have adopted procedures to better serve all members of the community without fear or favor. Extensive human relations training is now given to law enforcement officers, and internal systems have been developed to monitor and control the behavior of officers and to take action, if necessary, in cases of citizen abuse. Affirmative action programs have been implemented across the Nation, and law enforcement agencies are actively seeking to become representative of their communities by recruiting from minority groups.

All segments of the criminal justice system have demonstrated sincere responses to the problem of fear and distrust. And while community attitudes are far from positive, there is a growing public awareness of the desire "within the system" to serve the needs of all equally and sincerely. However, even though progress has been made, these efforts must continue.

Personal Inconvenience

Citizens who have once experienced personal involvement in the workings of criminal justice are usually very reluctant to become involved a second time or to encourage others to perform civic duties. Criminal justice officials frequently find that victims and witnesses of misdemeanors are more upset with criminals for involving them in the workings of the criminal justice system than for the criminal acts committed. In some cases, these negative public attitudes toward personal involvement have been well earned by the lack of consideration the system has shown toward victims and witnesses.

Victims and witnesses first enter the system at the scene of a crime or disaster. There they are questioned by officers and are then frequently transported to headquarters, where they are separated from each other (to preserve individuality of testimony) and required to wait for detectives. It is not unusual for victims and witnesses to recite their testimony several times for the benefit of different investigating officers. Frequently, they must arrange for transportation back to their homes or places of business after the interviews have been completed and formal statements signed. There may be numerous required appearances at inquiries, hearings, depositions, and trials. Hearings and trials are usually scheduled for the convenience of all but the victim or witness.

In addition, victims and witnesses receive token reimbursement for their inconvenience and travel expense when attending State attorney hearings and court trials. Other appearances are usually at their own time and expense. Disappointment occurs when defendants escape conviction through technical loopholes or error. Greater frustration is experienced when the accused is found guilty and immediately released on probation. Oftentimes, hostility toward the criminal justice system is generated when victims and witnesses are called to spend several hours waiting for a trial to begin before being informed that their appearance was made unnecessary by a guilty plea or by an "agreement" between the prosecution and defense attorneys hours earlier.

Cooperation and willingness to perform one's civic duty may be further discouraged by a victim feeling that he did not receive his "day in court" to the extent of restitution or compensation for losses resulting from a crime perpetrated against him. It would certainly appear that the criminal justice system has been punishing victims and witnesses instead of aiding and encouraging them.

Although identifying and correcting these abuses have long been neglected, attention is now being directed toward this important area. The Law Enforcement Assistance Administration (LEAA) has recently announced the availability of Federal funds to support cooperative programs between law enforcement and prosecution agencies to minimize the inconvenience to victims and witnesses and to encourage greater citizen involvement in the workings of the criminal justice system. Many States have already enacted legislation to create crime compensation injury boards to reimburse citizens for losses sustained as victims of crimes. Compensation is usually for medical and hospital expenses and lost wages.

Relatively new innovations in the area of victim compensation are the citizen dispute settlement and juvenile arbitration programs. Originally funded by foundation and Federal grants, these programs have dual functions. First, they provide an alternative to criminal prosecution of misdemeanor or juvenile violators. Second, and probably most important, the victim of the crime benefits directly (in most cases) from the penalties imposed on the offender by the dispute settlement or arbitration hearing officer. These adjudications usually require the offender to reimburse directly or indirectly the victim for losses and tend to renew the confidence of a victim in the criminal justice system.

Another fertile area for correction can be seen in the realm of victim and witness questioning. The use of tape recorders can provide all persons having investigative responsibilities with witness testimony. Tapes may be transcribed, and copies provided to victims and witnesses. Additional inquiries may then be directed to specific statements which can be more easily recalled to memory and clarified or corrected without repetitive testimony.

Transportation should be made available for victims and witnesses, and the times and places of required appearances should be scheduled more conveniently for them.

It is essential that the criminal justice system recognize the importance of victims and witnesses. Correcting abuses should not be limited to programs within police and prosecution agencies, but should also include court reform programs.

Fear of Reprisal or Harassment

Citizens are becoming increasingly aware of the potential danger of reprisal or harassment. The experiences of victims and witnesses who have been compelled to leave their homes or disconnect their telephones because of numerous threats, prank calls, nuisance solicitations, and vandalism have become common knowledge. Loss of personal privacy may often result in perceptions of inadequate personal security and increased vulnerability. This growing concern for personal vulnerability and fear of reprisal or harassment has increased in significance as a barrier to citizen involvement in the criminal justice system.

Discovery rules and public record laws which have benefited accused law violators and special interest groups have eroded individual rights of personal privacy. Although official police investigation reports are generally excluded from public record provisions, many police agencies furnish information from such reports to the news media in response to pressures for release of information. News agencies have self-imposed ethical restrictions governing their use of information, and the majority of agencies try to work cooperatively with police to balance the public's right to know against the individual's right to privacy. For the most part, media decisions are made with prudence and good judgment. Yet, a citizen's reluctance to offer information or assistance appears justified when information he confides to law enforcement officers is printed in newspapers almost immediately thereafter. In addition, a potential imbalance is created by the discriminatory nature of media sensationalism. Prominent persons in the community generally suffer greater intrusions into their personal privacy than do the "less newsworthy" citizens.

However, news media accounts and publications are not the only source of potential reprisal and harassment. Official law enforcement documents also provide information for nuisance solicitors. Police radio logs which contain information such as type of police call, date and time, and name and address of victim are considered to be public records in most States and must be displayed to anyone requesting to see them. Use of such information is not limited to reputable persons and business firms.

Harassment from defense attorneys is not as likely as other threats to personal privacy and domestic tranquility. Yet, many citizens are extremely reluctant to have contact with an attorney who is obliged to protect the interest of another, particularly a potential adversary.

Personal privacy is regarded by many as a constitutional guarantee. Failure of legislative and judicial bodies to protect that which is perceived to be an important personal privilege has caused citizens to defend personal privacy by shirking civic responsibilities.

It is unlikely that citizens will be encouraged to involve themselves in a criminal justice partnership merely by eliminating system abuses. New State legislation may be necessary to obviate the need for citizens to forfeit any of their valued privileges, such as personal privacy.

Is there a genuine need for public disclosure of the home addresses of victims and witnesses? Is such specific information essential to freedom of the press or the "public's right to know"? Can communications between citizens and police be similar to privileged communications between attorney and client? Can privileged communications be extended to include noncriminal information of a confidential nature? Can citizens be afforded the choice of restricting the use of information they provide for criminal justice purposes only? Effective operation of the criminal justice system is improbable until such questions are resolved on the State level. The Federal Privacy Act covers these matters, but State laws do not.

There is indeed much to be done. Professional criminal justice administrators must now demonstrate leadership and community responsiveness by developing (and publicizing) effective new programs that will encourage and reward citizen participation. As the community becomes aware of the corrective efforts, widespread reform may follow.

The Hillsborough County Sheriff's Office is currently developing programs that will promote citizen involvement in the criminal justice system. These programs are specifically designed to encourage participation of victims and witnesses and demonstrate our desire to serve and protect the community by working to restore the partnership between citizens and law enforcement. Positive action begins by identifying the barriers and implementing corrective measures. Yet, while positive strides have been taken, much remains to be done. Only through cooperation and assistance between all segments of the community and criminal justice system can we ensure the future welfare of our society. **FBI**

Forensic Science

Speaker Identification (PART 2)

Results of the National Academy of Sciences' Study

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The first part of this article dealt with the three general categories of speaker identification—listening, machine analysis, and aural-visual comparison. In view of the recent increase in the use of voice identification technology and the problems that have ensued, a study was conducted by the National Academy of Sciences (NAS). Part II of this article reports on the committee's findings and recommendations.

During the past 15-20 years, the Federal Bureau of Investigation has witnessed the expanded use of voice identification technology, conflicting scientific opinions, court rulings for and against evidence based on sound spectrograms, and the establishment of an organization of voiceprint examiners. Therefore, in March 1976, the FBI requested that the NAS undertake a study on the practice and use of spectrographic or voiceprint identification, its reliability, and its use as evidence in court.

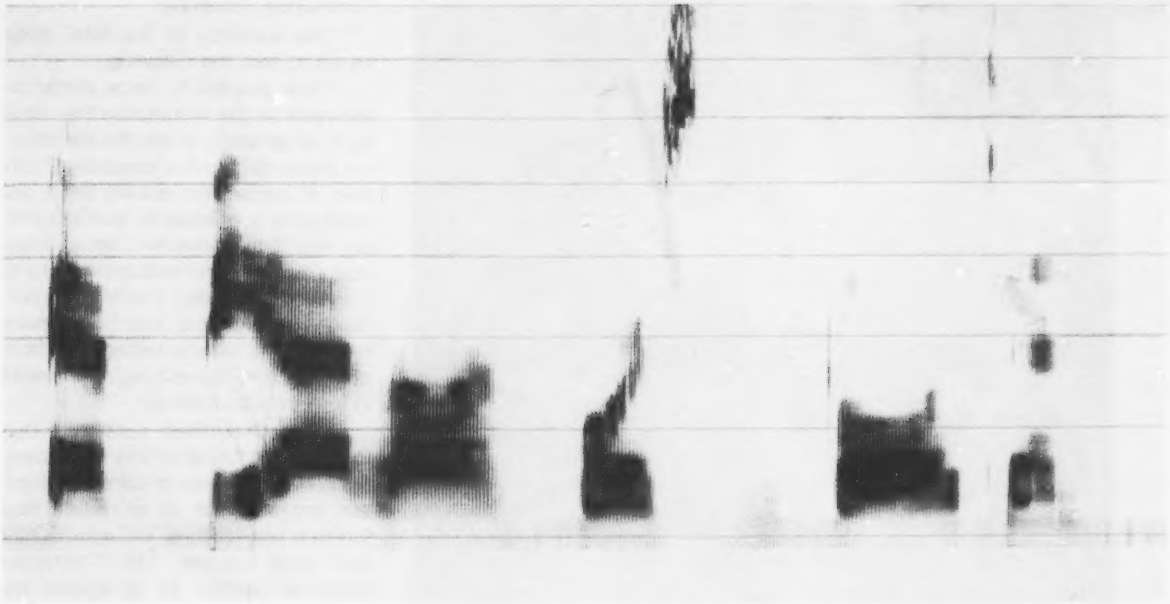
In July 1976, the National Research Council of NAS appointed the Committee on Evaluation of Sound Spectrograms which included eight independent experts representing both the scientific and legal communities. The committee included experts on acoustics, speech science, speech pathology, electronics, electrical engineering, audio recording systems, and criminal law and laws of evidence.

In February 1979, a detailed report of the committee's findings on voice identification, entitled "On the Theory and Practice of Voice Identification," was published. The committee throughout the study uses the term "voicegrams," which is synonymous with spectrograms or voiceprints. The committee did not address the issue of voiceprint admissibility in courts of law, which it considered to be a responsibility of the judicial and legislative bodies.

Committee Findings

The findings of the study discuss, in part, three general areas:

1) Some information on the identity of an individual is obtainable through listening and by looking at voicegrams of that person's speech.



2) Voicegrams are fundamentally different from fingerprints in that fingerprints are unchanging for an individual, whereas the same word changes acoustically, at least slightly, every time it is spoken by a particular person.

3) "The degree of accuracy, and the corresponding error rates, of aural-visual voice identification vary widely from case to case, depending upon several conditions including the properties of the voices involved, the conditions under which the voice samples were made, the characteristics of the equipment used, the skill of the examiner making the judgments, and the examiner's knowledge about the case. Estimates of error rates now available pertain to only a few of the many combinations of conditions encountered in real-life situations. These estimates do not constitute a generally adequate basis for a judicial or legislative body to use in making judgments concerning the reliability and acceptability of aural-visual voice identification in forensic applications." [7]

Conclusions of the Committee

The committee listed the three following conclusions in the areas of practice, research, and forensic use:

1) ". . . some improvement in the practice of aural-visual voice identification could be achieved in the near term by applying knowledge and techniques that are available now. . . .

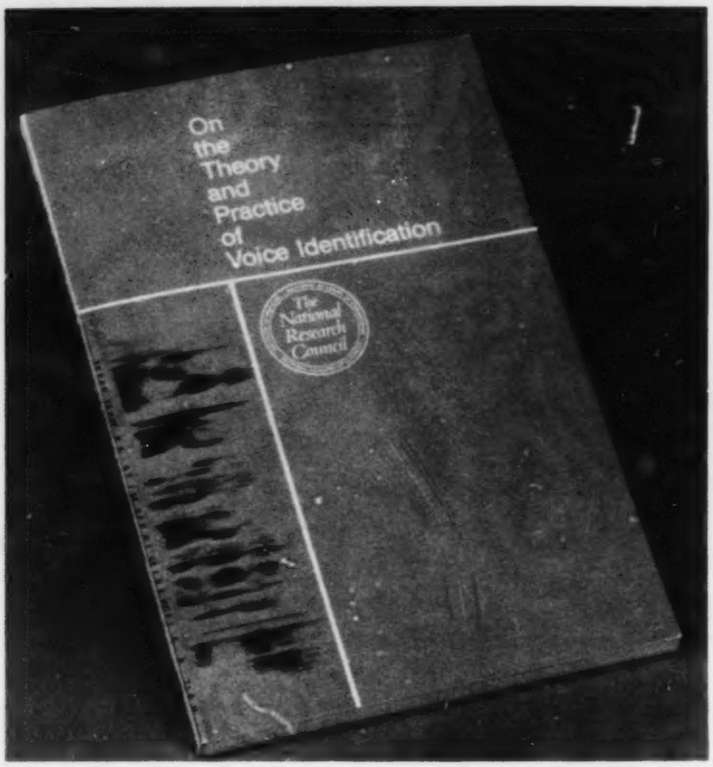
2) ". . . the full development of voice identification by both aural-visual and automated methods can be attained only through a longer-term program of research and development. . . .

3) "The decision about whether to use the aural-visual method of voice identification for forensic purposes depends on the answers to several subsidiary questions. First, it is necessary to have some measure of the error rate associated with the technique. . . . but objectively justified error rates are virtually impossible to determine for most of the forensic experiences reported to date." [8] Second, it is necessary to decide whether, in principle, the error rate is acceptably low for use in the particular case, which "is a value question and not a question of scientific or technical fact." [9] Third, it is necessary to decide whether, in practice, the nature of the error rate and the possible sources of error can be explained adequately to the lay fact finder, whether judge or jury, who will decide the case. "Therefore any presentation of voicegram evidence should be accompanied by a clear and thorough explanation of the limits of present knowledge about the accuracy of the technique. Such an explanation under present circumstances may be impossible to achieve or at least unwieldy, or it may be very costly." [10]

Committee Recommendations

The committee made the following four recommendations regarding the use and practice of voice identification:

1) "We recommend that a mechanism be established to stimulate, guide, and coordinate a broad national program of scientific research on the processes of speech generation, transmission, and analysis as they pertain to the practice of voice identification. . . .


On the Theory and Practice of Voice Identification
The National Research Council

2) "We recommend that a national mechanism be established to develop objective standards and methods for testing the performance of voice identification examiners and to certify their competence as examiners. An existing organization, the International Association of Voice Identification (IAVI), was established to perform some of these functions. However, the Committee believes that [the] IAVI as presently constituted does not possess the broad base of representation usually considered appropriate and perhaps essential for a national certifying board. . . .

3) "We recommend that practitioners of aural-visual voice identification make full use of certain available knowledge and techniques that could improve the voice identification method. . . .

4) "We recommend that if evidence on voice identification is admitted in court—and we take no position on admissibility—then the inherent limitations in the method and in the performance of examiners should be explained to the fact finder, whether the judge or the jury, in order to protect against overvaluation of such evidence. . . . the testimony should explain that up to the present time, error rates for voice identification have been measured for only a limited number of experimental conditions. All the scientific results and forensic experiences to date, taken together, do not constitute an adequate objective basis for determining the error rates to be expected for voice identification testimony given in forensic cases generally. Error rates reported in specific cases cannot be much more than informed guesses based on practical experience combined with fragmentary results from scientific experiments. . . . These limitations bear directly upon the problem of overvaluation of technical evidence." [11]

Committee Summary

The summary of the NAS study states, in part, the following:

"The practice of voice identification rests on the assumption that intraspeaker variability is less than or different from interspeaker variability. However, at present the assumption is not adequately supported by scientific theory and data. Viewpoints about probable errors in identification decisions at present result mainly from various professional judgments and fragmentary experimental results rather than from objective data representative of results in forensic applications.

"The Committee concludes that the technical uncertainties concerning the present practice of voice identification are so great as to require that forensic applications be approached with great caution. The Committee takes no position for or against the forensic use of the aural-visual method of voice identification, but recommends that if it is used in testimony, then the limitations of the method should be clearly and thoroughly explained to the fact finder, whether judge or jury." [12]

FBI

Copies of the NAS study are available for $7.00 prepaid through the Office of Publications, National Academy of Sciences, 2101 Constitution Ave., Northwest, Washington, D.C. 20418.

The FBI conducts voice identification examinations for Federal, State, and local law enforcement authorities for investigative guidance only and will not provide expert testimony.

Footnotes

[7] *On the Theory and Practice of Voice Identification* (Washington, D.C.: National Academy of Sciences, 1979), p. 60.

[8] *Ibid.*, pp. 60–62.

[9] *Ibid.*, p. 62.

[10] *Ibid.*, p. 63.

[11] *Ibid.*, pp. 63–69.

[12] *Ibid.*, p. 2.

The Role of Defense Counsel at Lineups

By LARRY E. RISSLER
Special Agent
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Washington, D.C.

Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

In 1967, the U.S. Supreme Court decided three cases dealing with police lineups.[1] In one of these, *United States* v. *Wade*, the Court discussed at length the dangers inherent in eyewitness identification and concluded:

> "The influence of improper suggestion upon identifying witnesses probably accounts for more miscarriages of justice than any other single factor—perhaps it is responsible for more such errors than all other factors combined."[2]

The "miscarriage of justice" referred to by the Court is the mistaken identification that can result if a pretrial identification procedure is conducted in a suggestive manner. Because the subsequent conviction may rest on an in-court identification, which is the product of the suggestive pretrial identification, a suspect appearing in the lineup is exposed to a "grave potential for prejudice."[3] The Court noted that the presence of counsel could help avoid the prejudice of a mistaken identification by preventing unfairness at the lineup itself and allowing the defendant to reconstruct the lineup at trial through cross-examination of the lineup witnesses. It then went on to hold that a postindictment lineup is a critical stage of the prosecution at which the suspect is entitled to the assistance of counsel.[4]

The Court's "constitutionalization" of pretrial lineups carried with it an exclusionary sanction. A lineup held in violation of a defendant's sixth amendment right to counsel will result in suppression of any testimony about the lineup identification. It will also result in suppression of any in-court identification by the lineup witness, unless the government can establish by clear and convincing evidence that the in-court identification is based on the witness' recollection of seeing the defendant's features at the crime scene

"Once the lineup actually begins, the lawyer should function merely as an observer. . . ."

and not from his recollection of the defendant at the tainted lineup. Because of the seriousness of this sanction, officers conducting lineups should be aware of those situations that frequently result in claims of a sixth amendment violation.

It is clear from the *Wade* decision, and from cases decided subsequent to that opinion, that the right to counsel at a pretrial lineup can be violated in one of two ways. First, and most obvious, is the situation in which an attorney is not present at the lineup and the defendant has not executed a voluntary waiver of his right to counsel. Less obvious, but possibly of more potential concern to officers conducting pretrial lineups, is the situation in which it is contended that "the attorney's role during the lineup was so severely restricted by the government that the attorney could not effectively carry out the purpose for which . . . [the *Wade* decision] . . . require[s] an attorney's presence."[5]

The purpose of this article is twofold: (1) To identify the proper role of a defense attorney attending a pretrial lineup, and (2) to discuss steps lineup officers can take to accommodate that role and thus avoid subsequent claims that the defendant was denied the effective assistance of counsel at his lineup.

Reasons for Presence

The role of the lineup lawyer probably can best be ascertained by examining the very reasons for his presence. As stated earlier, the purposes of having defense counsel at lineups are to minimize the likelihood of misidentifications by eliminating or reducing suggestiveness and enable counsel to make informed challenges to subsequent identification testimony through motions to suppress and cross-examination of lineup witnesses.

With these purposes in mind, the limits of the lawyer's activities can be established by answering the following questions, one or more of which are common to most police lineups:

1) In the event the suspect's lawyer does not appear, under what circumstances may the lineup proceed without him?

2) Should the lineup officer solicit or accept suggestions offered by the defense attorney regarding the composition or conduct of the lineup?

3) What participation should the defense attorney be allowed once the lineup has begun?

4) Should the defense counsel be present at the moment of the identification attempt or be allowed to attend the postlineup interview of the witnesses?

Failure To Attend Lineup

One problem that can develop even before the lineup begins is the failure of the defense counsel to appear. It may be that the lawyer was not notified of the lineup, or if notified, prevented from attending by other commitments or unforeseen circumstances. To the officer running the lineup, this is a major cause for concern. Delaying or rescheduling the lineup may be costly, time-consuming, or inconvenient and may result in a less-reliable identification. But may the lineup be conducted in the absence of the defense attorney? Several possibilities exist.

First, the defendant may be willing to waive his right to counsel. This appears to be a common solution to the problem and was contemplated by the *Wade* decision itself. ". . . counsel's presence should have been a requisite to conduct the lineup, absent an 'intelligent waiver'."[6]

If the suspect is unwilling to execute a waiver of counsel, consideration should be given to obtaining a substitute attorney. Although the question of whether substitute counsel would suffice was left open in *Wade*, the lower courts generally have approved the practice.[7] Logical sources of substitute counsel would appear to be the public defender's office, a legal aid bureau, or possibly a court-appointed lawyer.

In the event the suspect refuses to waive counsel, substitute counsel is impossible or impracticable, and it is absolutely imperative to conduct the lineup immediately, consideration might be given to conducting a "photo lineup." A "dry" lineup (a lineup which is not attended or viewed by the witnesses) is conducted. The suspect and the elimination participants are assembled in the lineup room, while the witnesses are sequestered in a remote location. The lineup array is then video taped or photographed and the pictures shown to the sequestered witnesses. Because there is no constitutional right to have counsel present when a suspect's photograph is shown to witnesses for identification,[8] the sixth amendment is not implicated. It should be observed, however, that this procedure is somewhat extraordinary and has, at this time, received limited judicial approval.[9] It is recommended that officers consult with their prosecutor or legal adviser before resorting to its use.

"Presence of counsel is required to minimize the likelihood of misidentifications and enable counsel to intelligently challenge subsequent identification testimony."

One other solution appears available in those infrequent situations when the suspect is not indigent and has the means to hire his own lawyer, but has failed to do so.

In *United States* v. *Clark*,[10] the defendant was arrested on bank robbery charges and appeared before a U.S. magistrate who determined he was not indigent and thus not entitled to court-appointed counsel. A lineup was arranged for the purpose of exhibiting Clark to the robbery witnesses, but it was postponed as Clark had not retained the services of an attorney. The lineup was rescheduled and subsequently held, although the defendant still had not hired a lawyer and did not execute a waiver. He was identified and later convicted. On appeal he contended that he was denied his right to counsel at the pretrial lineup.

The court of appeals rejected his contention, pointing out that Clark was financially able to retain counsel and was given a reasonable time to secure one. "In these circumstances, his failure to retain counsel was properly treated by the court as a waiver of his right to counsel." [11]

It is emphasized that the steps taken by the officers in the *Clark* case appear to have application only to those situations in which the lineup suspect is not indigent and has been instructed to make arrangements for hiring his own attorney, but has failed to do so even though he has been given ample opportunity and has been placed on notice regarding the impending lineup. If a retained or appointed lawyer does not appear, through no fault of the accused, a lineup would most likely be ruled in violation of the suspect's right to counsel (absent a waiver or substitute attorney).

Lawyer's Suggestions

Once the lineup is about to begin, should the defense counsel be permitted to make suggestions regarding the composition or conduct of the lineup? Or should his role be limited to that of a passive observer?

Language in the *Wade* opinion states that ". . . the presence of counsel itself can often avert prejudice. . . ."[12] It was not immediately clear whether this passage meant that the mere presence of the defendant's lawyer at the lineup would deter the police from employing suggestive tactics, or whether the counsel was to be given an active role in setting up and running the lineup. In 1973, the Court itself appeared to state a preference for the former when it summarized the *Wade* holding as follows:

> "The Court held, therefore, that counsel was required at a lineup, primarily as an observer, to ensure that defense counsel could effectively confront the prosecution's evidence at trial. Attuned to the possibilities of suggestive influences, a lawyer could see any unfairness at a lineup, question the witnesses about it at trial, and effectively reconstruct what had gone on for the benefit of the jury or trial judge."[13]

Four years later, however, in *Moore* v. *Illinois*,[14] the Court strongly suggested that the attorney's role was not limited to that of a mere observer.

> "If an accused's counsel is present at the pretrial identification, he can serve both his client's and the prosecution's interests by objecting to suggestive features of a procedure before they influence a witness' identification." [15]

One can easily see how the "*client's* interests" can be served by allowing the defense attorney to participate in the arrangements for the lineup—misidentifications resulting from suggestive confrontations could be avoided. But to what "*prosecution* interest" was the Court referring? An obvious one, "preventing the infiltration of taint in the prosecution's identification evidence" was mentioned in the *Wade* opinion.[16] Two others have been suggested by the lower courts.

First, it is likely the government will be required to respond to fewer motions to suppress identification testimony if the defendant's attorney has been allowed a role in staging the lineup. Having been afforded the chance to suggest lineup procedures, he may be less likely to object later to identifications made at the lineup. This seems especially true if his recommendations were adopted. As stated in *United States* v. *Eley*,[17] ". . . suggestions of defense counsel may be followed and lineup contests averted."[18]

Second, even if a motion to suppress is made, judges may be reluctant to suppress eyewitness identification testimony because of an allegedly suggestive lineup, if the defense attorney had been given the opportunity to take part in the actual preparation of the lineup. As noted by the Court of Appeals for the District of Columbia Circuit:

". . . the prosecution is not constitutionally required to furnish the defense names and addresses of witnesses attending the lineup."

> ". . . it might well be that, absent plain error or circumstances unknown to counsel at the time of the lineup, no challenges to the physical staging of the lineup could successfully be raised beyond objections raised at the time of the lineup." [19]

Because both the defense and prosecution can benefit if the accused's lawyer is allowed to offer suggestions about lineup composition and procedure, it appears reasonable to provide for it in departmental lineup policy. Further, it is advisable from a prosecutive standpoint to accept those recommendations that are reasonable. (Clearly, unreasonable recommendations should be rejected.) All suggestions offered by the defense attorney, whether or not adopted, should be noted by the lineup officer and made a part of the written record describing the lineup.

Participation During Lineup

Once the lineup actually begins, the lawyer should function merely as an observer and should not be permitted to converse with any of the lineup participants or witnesses. Any attempts by the attorney to disrupt the lineup should be noted by the lineup officer on his written report of the proceedings.

Presence at Moment of Identification

Another situation frequently resulting in litigation is the question of whether the defense attorney should be allowed to be present at the moment the lineup witness is asked to make an identification. The answer depends, in part, on whether the identification attempt takes place during the physical confrontation between the witnesses and the suspect or later in a postlineup interview. Although "it may be good procedure to identify the accused at the lineup" [20] itself, the common practice is for the identification attempt to take place after the lineup has ended and the witnesses have been removed to an interview room.

Clearly, the defense attorney should be present if the identification attempt takes place in the lineup room, while the suspect is still within view of the witness. But what if the identification occurs later, after the confrontation is terminated? This issue has not been addressed squarely by the Supreme Court. But with few exceptions, "[v]irtually all the [lower] courts which have had occasion to consider this problem have refused to extend . . . [the right to counsel] . . . beyond the actual confrontation between the accused and the witnesses to a crime." [21]

The rationale for allowing the attorney at the lineup confrontation, but denying him access to the postlineup interview, rests on the view that a substantial potential for misidentification exists during the actual time "the accused is exhibited to identifying witnesses." [22] This is because of the suggestive manner in which the lineup might be conducted. Due to nervous tension or inexperience, the accused is unlikely to be able to correct the suggestiveness at the time or reconstruct it later at trial without the assistance of counsel.

Conversely, even though the prosecution may improperly assist the eyewitness in the postlineup interview, the potential for prejudice is not as great as at the lineup itself. The defense attorney can easily reconstruct the circumstances of the interview by skillful cross-examination of those present. "To hold otherwise is to require the presence of counsel whenever a witness who will testify about the identity of the accused is interrogated by the police." [23]

It should be noted, however, that some courts which have held that defense counsel need not be present at the postlineup identification have based their decisions, in part, on the fact that the witness was made available to defense counsel for interview immediately after the lineup, or later, before trial began.[24] And one court has held that if defense counsel is denied access to an identification witness, a verbatim recording (video tape or tape recording) of the postlineup interview should be made and furnished to the defense attorney in time for a pretrial suppression hearing.[25] Although this practice may be commendable, the majority view appears to be that the prosecution is not constitutionally required to furnish the defense names and addresses of witnesses attending the lineup.[26]

Conclusion

A lineup held after the initiation of adversary judicial proceedings is a critical stage of the prosecution entitling the defendant to the assistance of counsel. Presence of counsel is required to minimize the likelihood of misidentifications and enable counsel to intelligently challenge subsequent identification testimony. If defense counsel is denied his proper role at the lineup, a violation of the suspect's right to counsel ensues, which can result in suppression of eyewitness testimony.

In the event the defendant's counsel fails to appear for the lineup, officers should attempt to secure a waiver of counsel from the accused or locate a substitute lawyer. If the suspect refuses to waive and substitute counsel is unavailable, a "photo lineup" is a possibility.

The lineup attorney should be allowed to make suggestions regarding the composition and conduct of the lineup, prior to its commencement. After the lineup has begun, however, he should function only as an observer and should not be allowed to converse with lineup participants or witnesses or disrupt the lineup.

It is advisable for the witnesses to make the identification attempt during the actual confrontation, when the defense counsel is present. However, if the attempt at identification takes place later in a postlineup interview, the defense attorney may be excluded. The prosecution is under no constitutional duty to furnish to the defense the names and addresses of lineup witnesses. **FBI**

Footnotes

[1] *Stovall* v. *Denno*, 388 U.S. 293 (1967); *Gilbert* v. *California*, 388 U.S. 263 (1967); *United States* v. *Wade*, 388 U.S. 218 (1967).

[2] 388 U.S. at 229 quoting Wall, *Eye-Witness Identification in Criminal Cases* (1965), p. 26.

[3] *Wade, supra* at 236.

[4] Five years later, in *Kirby* v. *Illinois*, 406 U.S. 682 (1972), the Court indicated that the right to counsel for lineup purposes does not attach until the formal commencement of adversary judicial proceedings. Clearly, adversary judicial proceedings may begin prior to indictment. See *Moore* v. *Illinois*, 434 U.S. 220 (1977) (preliminary hearing); *United States ex rel. Robinson* v. *Zelker*, 468 F. 2d 159 (2d Cir. 1972), *cert. denied*, 411 U.S. 939 (1973) (issuance of arrest warrant). Additionally, the right to counsel applies only to lineups dealing with the crime for which the defendant is charged. See *Boyd* v. *Henderson*, 555 F. 2d 56 (2d Cir. 1977), *cert. denied*, 434 U.S. 927 (1977) (defendant who was charged with car theft had no right to counsel for viewing by robbery victim inasmuch as robbery charges not yet filed); *Bruce* v. *State*, 375 N.E. 2d 1042 (Ind. 1978), *cert. denied*, 439 U.S. 988 (1978) (in-custody murder suspect had no right to counsel at lineup for witnesses to rape for which charges not yet filed).

[5] *United States* v. *Bierey*, 588 F. 2d 620, 623 (8th Cir. 1978), *cert. denied*, 99 S. Ct. 1260 (1979).

[6] 388 U.S. at 237.

[7] See *United States* v. *Smallwood*, 473 F. 2d 98 (D.C. Cir. 1972); *United States* v. *Kirby*, 427 F. 2d 610 (D.C. Cir. 1970).

[8] See *United States* v. *Ash*, 413 U.S. 300 (1973).

[9] See *People* v. *Lawrence*, 4 Cal. 3d 273, 481 P. 2d 212 (1971), *cert. denied*, 407 U.S. 909 (1971) (photo of simulated lineup shown to kidnap victim); *People* v. *Lewis*, 74 Cal. App. 3d 633 (1977) (video tape of lineup displayed to hospitalized witness.)

[10] 499 F. 2d 802 (4th Cir. 1974).

[11] *Id.* at 808 quoting *United States* v. *Terry*, 449 F. 2d 727, 728 (5th Cir. 1971).

[12] 388 U.S. at 236.

[13] *United States* v. *Ash*, 413 U.S. 300, 324.

[14] 434 U.S. 220 (1977).

[15] *Id.* at 225.

[16] 388 U.S. at 238.

[17] 286 A. 2d 239 (D.C. Ct. App. 1972).

[18] *Id.* at 240.

[19] *United States* v. *Allen*, 408 F. 2d 1287, 1289 (D.C. Cir. 1969).

[20] *State* v. *Favro*, 487 P. 2d 261, 263 (Wash. 1971), *cert. denied*, 405 U.S. 1040 (1972).

[21] *United States* v. *Bierey*, 588 F. 2d 620, 624 (8th Cir. 1978) *cert. denied*, 99 S.Ct. 1260 (1979). See also *United States* v. *Tolliver*, 569 F. 2d 724, (2d Cir. 1978). *Contra*, *State* v. *McGhee*, 350 So. 2d 370 (La. 1977) (right to counsel extends to postlineup interview; ruling based on interpretation of sixth amendment and State constitution); *People* v. *Williams*, 3 Cal. 3d 853, 478 P. 2d 942 (1971).

[22] *Wade, supra* at 272.

[23] *Favro, supra* note 20, at 263.

[24] See *United States* v. *Wilcox*, 507 F. 2d 364, 367 (4th Cir. 1974), *cert. denied*, 420 U.S. 979 (1975); *United States* v. *Banks*, 485 F. 2d 545, 548 (5th Cir. 1973), *cert. denied*, 416 U.S. 987 (1973).

[25] See *Tolliver, supra* note 21, at 728.

[26] See *United States* v. *Eley*, 286 A. 2d 239 (D.C. Ct. App. 1972). Nor is production required under the exercise of a court's supervisory authority. See *United States* v. *Yates*, 279 A. 2d 516, 518 (D.C. Ct. App. 1971). This is compatible with language in *Wade* which suggests that officers might mask lineup witnesses to conceal their identities from defense counsel. 388 U.S. at 239, n. 26.

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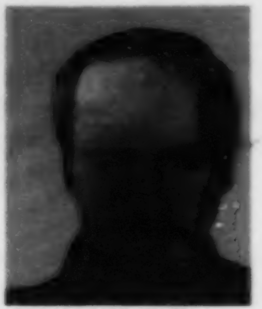
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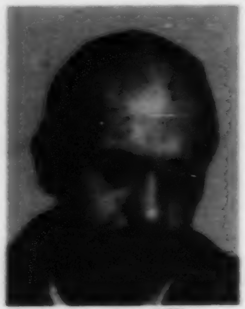
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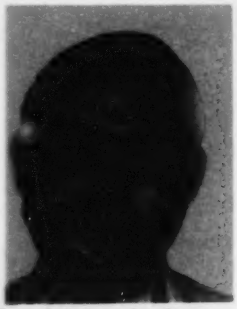
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WILLIAM JOHN POSEY, Jr.

William John Posey, Jr., also known as Earl D. Cox, James Joseph Loutz, Jamz Josef Loutz, James William Lutz, Russell Martin, Bernard Posey, Bernard David Posey, John William Posey, William J. Posey, Jr., William J. Posey, William John Posey, William Snyder, Robert Thibedore, and others.

Wanted For:

Kidnaping; escaped Federal prisoner; parole violator.

The Crime

Posey, an escapee from custody who has been armed with a pistol in the past, is being sought in connection with a series of assaults on females, including the kidnaping and apparent murder of one victim.

A Federal warrant was issued on April 6, 1978, at Burlington, Vt., charging Posey with the crime of kidnaping. A Federal warrant was also issued on April 26, 1976, at Philadelphia, Pa., charging Posey with violating the terms of his parole.

Criminal Record

Posey has been convicted of fraud, bond default, and false declaration under oath.

Description

Age	32, born April 17, 1947, North Charleroi, Pa.
Height	5'8" to 5'9".
Weight	160 to 170 pounds.
Build	Medium.
Hair	Brown/receding.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Bartender, cab driver, farmer, foundry worker, jeweler, maintenance man, salesman, truck driver.
Scars and Marks	Scar on right palm; red birthmark on back of left hand; appendectomy scar.
Remarks	May be wearing mustache and/or beard; deaf in right ear; has been characterized as a schizophrenic with a propensity for violence against women.
FBI No.	190,996 G.

Caution

Posey should be considered armed, dangerous, and an escape risk.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

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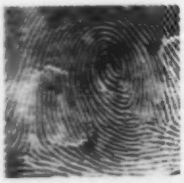
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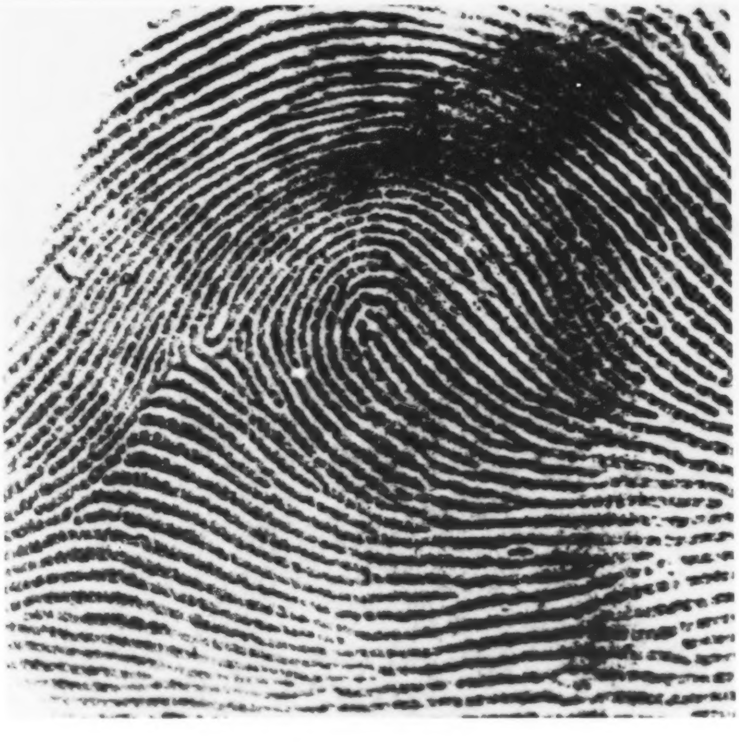

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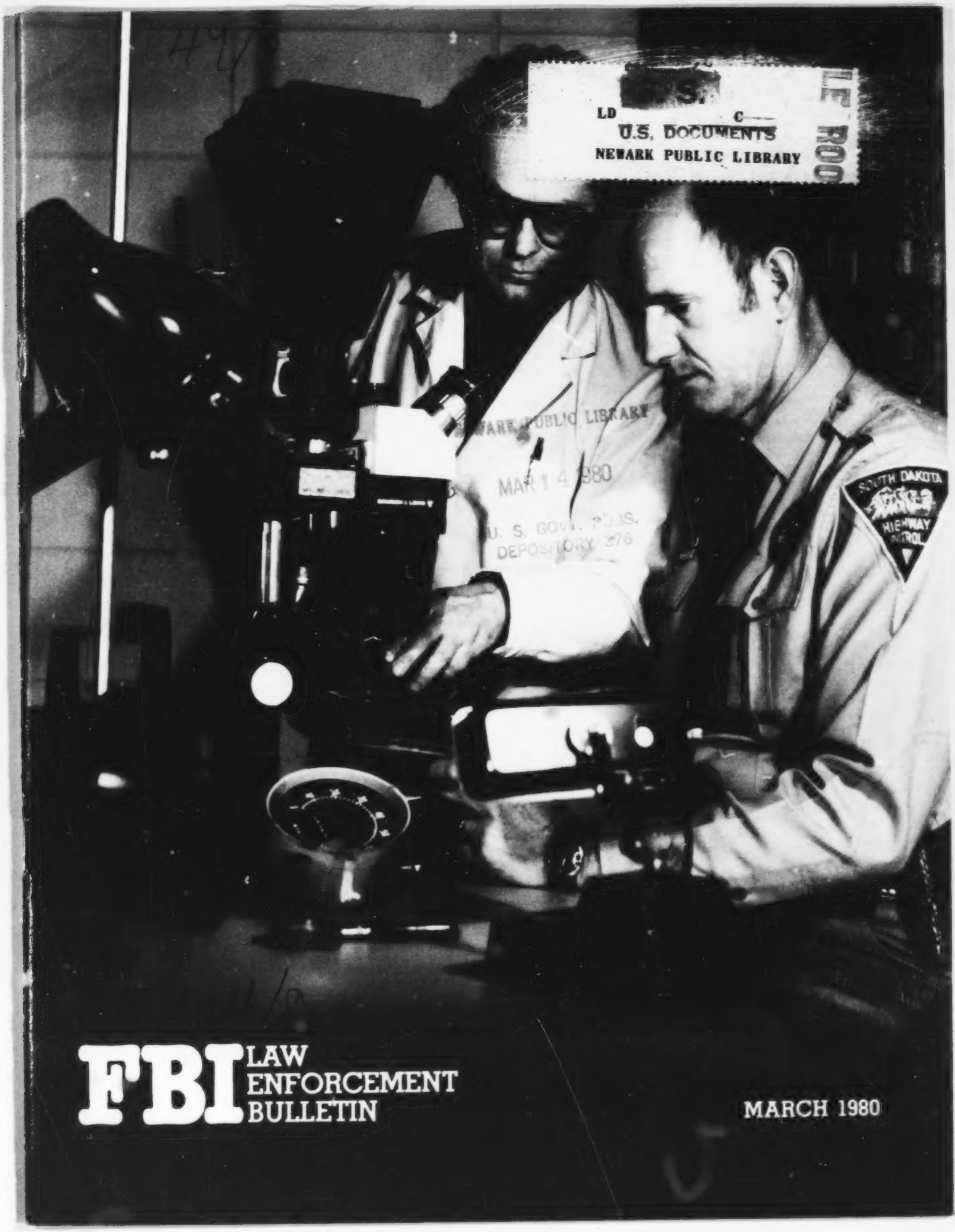
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FBI LAW ENFORCEMENT BULLETIN

MARCH 1980

Director's Message

Information from sources is the raw material of evidence needed in a court of law. But when sources are afraid to furnish information, the criminal justice process, our bulwark against anarchy, faces a breakdown.

Time and again informants and potential sources have told us they are afraid to furnish information because their identities might be disclosed under the Freedom of Information Act and this would ruin their reputations, subject them to lawsuits, or endanger their lives.

In one recent case, an elderly victim was kidnaped and beaten, but information about the location of the suspects was withheld by a potential source—because of Freedom of Information Act considerations. A subpoena had to be obtained, and the several hours delay in getting the needed data led to a needless death—one of the suspects shot and killed another person just a few hours before his arrest.

Congress passed the Freedom of Information Act to allow the electorate to be better informed about the workings of its Government. This it is doing, but today the act needs some fine tuning regarding law enforcement information. Congressional committees that oversee FBI operations have invited the submission of possible refinements to the act.

The first change we propose is to divide FBI records into two categories, the first of the most sensitive kind—those pertaining to foreign intelligence, foreign counterintelligence, organized crime, and terrorist activities. The public's need to know that the FBI is discharging its responsibilities in these areas should be channeled through the Congress, the executive and judicial branches, not to the organized crime group that made a concerted effort to obtain records which, when pieced together, might have identified highly sensitive sources, nor to foreign agents or terrorists who can assure their own security by knowledge that the FBI has no information about their activities in a particular locale—a confirmation we are required to give under the present act.

These most sensitive areas should be exempted from the Freedom of Information Act; as President Johnson said when he signed it into law, ". . . a democracy works best when the people have all the information that the security of the Nation permits." This would not affect the second category of all other records.

To further protect the confidentiality of sources, the present provision calling for release of data unless it ". . . would disclose the identity of a confidential source . . ." should be changed to ". . . would *tend* to disclose. . . ."

This adopts comments that courts have made in several cases and conforms to the intent of Congress. This modification, in combination with a proposed 7-year moratorium on investigative records, would serve the public's interest in effective law enforcement and reestablish a free flow of information from the public. The purpose of the proposed moratorium is to frustrate immediate attempts by newly prosecuted persons, most familiar with their cases, to identify confidential sources.

We also propose exempting from the act the mandatory furnishing of data to felons and foreign nationals—they are not part of the electorate Congress intended to be informed, but can use the act to further their criminal ends. Lastly, a more realistic time period for furnishing records, based on the volume of work involved, would enable agencies besieged with requests to comply fully with the law without diverting resources from priority investigations.

It is important to recognize that these proposed changes refine the Freedom of Information Act—they don't repeal it. Our proposals would protect legitimate law enforcement concerns while preserving the basic principles of the act.

William H Webster

William H. Webster
Director
March 1, 1980

FBI LAW ENFORCEMENT BULLETIN

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William H. Webster, Director

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Crime Problems

Security in the Operation of a Bank Card System

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Security has been defined as "the condition or feeling of being safe or sure; freedom from danger, fear, doubt, etc." Before relating this definition to the bank card field, one should first explore the field to determine how it has become responsible for an estimated one-half of all the retail/credit transactions in the country today.

In the 1960's, banking interests began to distribute plastic credit cards with several new aspects; that is, they were to be issued to customers to whom a line of credit had been extended. The banks would then contract with merchants who would honor these bank credit cards. The merchants deposited the credit card sales documents with the bank and received immediate credit. The banks then charged the cardholder's account and rendered him monthly statements.

By this time the computer had been developed to the point where it could process any credit card transaction within a fraction of a second and these transactions were designed to be handled in great volume. Computers are now capable of processing 9,000 to 10,000 sales documents per hour, around the clock.

Based upon bank credit card experience, banking interests began to explore additional methods by which they could extend new services to customers. Currently being developed are electronic fund-transfer systems, which transfer funds by electronic means from bank to bank. Automated teller facilities, which can be activated with a plastic account card to perform most of the functions in the banking system, are now available. Such plastic cards were initially referred to as "debit" cards for they did, indeed, perform debit instead of credit functions. Banks now refer to any plastics issued by banking interests as "bank cards." Therefore, in discussing the security aspects of a bank card system we will relate in general terms to the security considerations that should prevail when dealing with either debit cards or credit cards.

In the initial system/design phase of bank cards, serious consideration should be given to developing a security "image" or "posture." Banks are dealing with the funds and property of other persons and this requires that security be present and visible. This should, of course, involve a high resolve by top echelon in the bank to seek-out and prosecute those individuals who engage in fraudulent use of the accounts, including bank personnel themselves.

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Creation of an Account or Cardholder Base

Why not send account cards to every customer of the bank? Simply, any bank has customers who are collection problems on loans, bad checks, and a host of other problems. To alleviate problems of this type, bank records of prospective cardholders should be evaluated, local credit bureau records should be assessed, and the results evaluated by knowledgeable credit personnel. Customers who have not had recent dealings with the bank should be contacted to ascertain whether the address on file is correct. Banks have, on occasion, issued cards to persons who were deceased.

Additionally, a method should be devised to record and index rejected applications so that future applications can be evaluated in light of prior rejections. One person in a midwestern city recently submitted some 37 applications for bank cards to several banks in the city. Inquiry into the matter revealed that the applications were mailed from various parts of the country within a 3- or 4-day period. The applicant claimed to be a professional man of some means with a local address that was later found to be a parking lot. U.S. Postal authorities took the man into custody at the airport as he was preparing to leave the city after having fraudulently used a credit card he had obtained by falsifying an application.

Development of the Merchant Base

Files of early bank card issuers contain tales of the rush that occurred to "sign up" merchants who would accept the bank card transactions. They found that some of these merchants were merely "fronts" set up for the purpose of fleecing banks. A visit to a prospective merchant by bank personnel can verify the validity of the merchant's request. Empty shelves covered with drapes and the vague statement that the merchandise is "on order" should alert bank personnel to postpone activating the card until visible business interests are present.

Once a merchant's account has been approved, arrangements should be made to code the account through the computer. This enables the bank to have some expectation of the volume of business likely to be generated by the merchant. When these criteria have been established, arrangements should be made to bring any exceptions to the attention of the bank for evaluation.

Security personnel should be trained to conduct seminars for merchants in specific shopping areas or zones. Local police and retail merchant organizations can be of great assistance in arranging these seminars, which are invaluable tools in educating merchant personnel in elementary security procedures at the store level.

Procurement and Distribution of Plastic Cards

Having reviewed some of the elementary security considerations in the initial development of the bank card system, we must consider the phase of the bank card operation that could, if improperly designed and implemented, subject the entire card operation to a series of intolerable security failures. We may have established the tightest cardholder and merchant controls imaginable in the confines of the bank or service center, but unless we pay meticulous attention to every security phase of the procurement, processing, and distribution of the plastic cards themselves, we could endanger the entire operation.

Most bank card issuers use established plastic card manufacturers as sources for their cards. These companies must adhere to strict manufacturing, processing, and shipping specifications in dealing with bank cards. The manufacturers are periodically inspected to insure that all specifications are being followed. Many such manufacturers handle every phase of the manufacturing and distribution of the plastics. Some bank interests will purchase the raw plastics, process them, and then mail them from their own facilities. It is imperative, though, that each step in the handling process be clearly defined and continually inspected to insure the safe handling of the plastics. Audit trails should be established so that any unaccounted plastics are quickly identified and the matter immediately resolved.

The department of the bank that handles both the operation of the accounts and returned cards should be located in a limited access area. One can forecast the danger of having cards returned to the unprotected environment of a bank reception area open to all customers. When bank card operations are handled by a service bureau, the processing area for the cards should be in a limited-access area.

Most cards are distributed through the U.S. Mail. During the initial phases of the system design, local postal authorities should be consulted for advice as to logical days to place the cards in the mail stream. They can also identify areas where mail thefts are prevalent and cards for these areas should be delivered by bank messengers, etc. Grouping mail by ZIP code number not only assists the Post Office in the prompt handling of the mail but financial credits can also be gained by mailers who presort their mail. Getting the plastic into the mail quickly with a minimum amount of handling after it leaves the bank's control minimizes the chances of the mail being improperly delivered.

Reporting and Recording Lost and Stolen Cards

At this juncture, presuming we have implemented every imaginable technique to validate that our cardholder and merchant bases are legitimate and have taken every known precaution in the distribution of the plastic cards, one might surmise that we have only to sit back and wait until

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something happens to require security to go into action. Inevitably, some plastics are going to be stolen or lost, and a system for reporting losses must be developed. When a plastic is reported lost, stolen, or otherwise in errant use, the initial process should be the completion of an approved form. This information should then be put into the computer so that an "exception report" will generate a printout of each transaction on the account. This printout should be evaluated by security personnel so that fraudulent sales can be identified and recorded, and the sales documents can be retrieved for the scrutiny of investigative personnel. At this point, the initial lost or stolen report is a significant element, since the investigator will, in most instances, desire to interview the cardholder regarding the circumstances of the card loss.

Between 70 and 80 percent of the plastics involved in fraud have been stolen from cardholders, making the theft of cards the greatest security threat. Cardholders should be encouraged to report promptly the loss or theft of their plastics to local law enforcement agencies. Many bank card frauds have been curtailed because a well-informed, local law enforcement agency has recovered errant cards from burglars, pickpockets, or purse snatchers during what would normally be a routine police matter.

Bank card security personnel should consider developing a program of regularly alerting cardholders to the danger of misplacing their cards. This could be accomplished by including a carefully worded message on the monthly account statements. A well-informed cardholder, continually reminded by such messages and by contacts with bank system personnel, can be a great asset in any bank card system. Security personnel investigating fraudulent practices probably have more day-to-day contact with cardholders than any other department in the bank. Security personnel should be encouraged to make good use of these contacts.

Many invalid plastics are retrieved by store clerks. Most bank card systems provide for rewards to be paid to merchant personnel when they succeed in retrieving these invalid cards.

In any event, a number of cards are returned to banks each day via returned mail, sometimes without prior notification. A system must be developed to handle such plastics under secure conditions. Most banks and service centers have secure mail boxes in which recovered cards can be deposited until later handled by security personnel. The bank is quick to recognize the danger of improperly handling returned "live" plastics, especially after one of its employees becomes involved in credit card fraud.

Detection of Fraud Usage

While we have discussed the most rudimentary phases of developing the bank card security system, we must now turn our attention to some of the more intricate aspects of the protection of the bank's accounts; that is, the detection, investigation, and prosecution of persons who are using accounts fraudulently.

Just as the system has, with the magic of the computer, been designed to handle a great number of financial transactions in a minimum amount of time, security personnel must use the magic of the computer to assist them in controlling fraud. We should be able to categorize and identify the types of merchants, geographical areas, and times and places such fraud is likely to occur. Computers can be programed to categorize fraud transactions in any imaginable manner for any given time.

We have discussed that the computer can be programed to monitor the merchant accounts and to report exceptions to recorded criteria in merchant activity. A program can also be designed to report any exceptions to data set forth on the cardholder file.

Information regarding cardholders who exceed the credit line, make purchases in excess of a given number within a certain time period, or make over-the-floor purchases exceeding a given limit should be furnished to account monitors for evaluation. Additionally, some systems are programed to mail to the cardholder a "first use notice," on a new account, ostensibly to thank the customer for using the card. However, this notice could also alert him to unauthorized usage of his card.

Fraud is sometimes detected after an alert cardholder has noticed that his card is missing, the account has been statused on the computer, and subsequent sales activity generates an exception report for evaluation. Once the fraud has been detected, immediate steps should be taken to place the account number on any available list of wanted cards, or arrangements should be made to notify promptly merchants of the illegal use of the card. Two major bank card systems have developed regular wide-spread listings of restricted or wanted account card numbers.

Prosecution for Fraudulent Use of Accounts and Cards

Prosecution for fraudulent use of bank cards lies with local city, county and/or State prosecuting officials and/or with the offices of the U.S. attorneys where Federal laws have been violated. Federal prosecution is usually handled by U.S. postal inspectors and is usually confined to large-scale fraud operations between several States or to matters that involve the theft or misuse of the U.S. Mail. Postal inspectors are very capable contacts for implementation of security efforts in exercising fraud control.

The greater majority of prosecutions for fraudulent use of bank cards is handled by local city, county, and State prosecuting authorities, who will usually require a written police report. Many prosecutors will accept well-prepared reports of experience bank card security investigators, along with reports of investigating police officers.

Investigators checking account numbers through microfiche.

Security control module.

Once the fraudulent tickets have been accumulated by the security investigator, he should consider an in-depth interview of the cardholder to obtain details concerning the loss of the card and any pertinent information that might lead to establishing the identity of the unauthorized card user. Cardholders should be advised to report their losses to local police agencies. Any hesitancy to do this should give rise to the suspicion that there is no actual errant card involved in the alleged fraud transactions.

The most logical sources for information concerning the fraud user are the clerks who actually handled the questioned sales. Interviewing clerical personnel in large volume outlets in an effort to determine who purchased items described on a sales ticket as "mdse" several weeks prior to the interview is usually nonproductive, while interviewing low-volume merchants regarding the sale of an item that is well-described in the sales document could be more productive. An experienced bank card investigator will become familiar with the sales and merchants from whom he can hope to develop information relating to the sale. Merchants should not be interviewed by telephone; nothing in the business can take the place of a well-planned and executed personal interview. At the conclusion of the interview, the investigator's notes should be reviewed in order to discern whether there are other logical things that the merchant personnel can recall about the transaction.

Plant Protection

The bank card operation should be subject to very tight access control. In the event the bank operates its own bank card department, the department should be apart from other sections of the bank and be in an area where the access is limited to those who have a legitimate need to be there. The area where the plastics are processed should be an area where access is limited to management personnel and those actually performing card-handling duties. A facility being used to house the bank card operation should be subject to 24-hour guard protection, and access to the facility should be limited to those employed at the plant and those having legitimate business interests there.

It is strongly recommended that the card storage area, the card processing area, and the computer room be a limited access area within the facility. Access should be limited to management personnel, maintenance personnel accompanied by employees, and to employees actually working in those areas. A sign-in and sign-out book will limit those going into the area.

In any type of operation it is most necessary that the information put into the system be under the strictest controls. Most computer entries in the systems today can be accomplished by hardcopy, computer tape, and/or by terminals with typewriter keyboards. Sign-in codes that limit access to the system are a must, and these codes must be revised on a regular basis to guard against compromise. The output of the system must also be subject to strict controls. Printouts that show account and financial data should be shredded, as should the carbon paper used in the printout process. Computer programs should be indexed and stored in a limited-access file or library, and a record of persons using these files should be maintained. Backup tapes for emergency use should also be stored at an offsite library.

There are many documents which set forth security guidelines in connection with computer installations. Security personnel should insure that these documents are reviewed periodically, that plant protection measures are followed, and that audit trails are maintained. Security personnel should follow these trails in the event of a breech in the security of an installation.

Every well-designed bank card security operation should have a published emergency plan disseminated to management employees so that every employee knows what is expected in the event of an emergency. Security representatives are responsible for the design and implementation of such an emergency plan.

Conclusion

Bank card security is a challenge to the security professional. The field is as modern as the computer, and there are new developments each day. The professionals in the field today were, for the most part, in another field 10 to 15 years ago. There will always be a need for trained, professional security personnel in the bank card field.

Security personnel now in the field and those interested in such positions should consult with local bankers regarding courses in bank card security being offered by the American Bankers Association, the Bank Administration Institute, and by colleges and universities in the country.

Membership in the International Association of Credit Card Investigators, which includes members from many parts of the world, has greatly enhanced the performance of many bank card security professionals. Seminars conducted at the various regional and national meetings are invaluable tools for the individual engaged in the investigation of fraudulent bank card practices.

The banking industry has been greatly influenced by developments in the bank card field and by the experience it has gained in the field. Bank card security personnel have made major contributions to the field by the measured application of sensible security procedures. FBI

Police and Social Worker Cooperation

A Key in Child Sexual Assault Cases

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Until recently, relationships between police officers and social workers have been characterized by mutual distrust and suspicion. The causes for this antagonism are complex, but appear to be based on assumptions held by both groups that their roles are fundamentally different and are incapable of working together.

Many police officers have the opinion that social workers are "do gooders" who lack an understanding of the problems faced by the police. They see social workers regarding crime as a social disease that requires "treatment" without involvement in the criminal justice system. At the same time, many social workers look upon the police as being insensitive to the offender and victim. They frequently believe that involvement with the criminal justice system produces negative consequences for the offender, as well as victim, which outweigh the effects of the original crime.

In different situations, both perceptions may be partially accurate. However, these perceptions need not hold true. Indeed, the roles of police and social workers can be made compatible.

In 1978, a study of sex crimes perpetrated against children in the first 6 months of that year was conducted by the Sexual Assault Center of the Harborview Medical Center in Seattle, Wash. The purpose of the project, which was funded by a grant from the Law Enforcement Assistance Administration, was to develop new procedures to be used by criminal justice personnel when dealing with these child victims.

Table 1

Victim Characteristics

Sex of Victim		
Male	(8)	13.6%
Female	(51)	86.4%
Total	(59)	

Age of Victim*		
1–5	(7)	12.1%
6–12	(30)	51.7%
13–17	(21)	36.2%
Total	(58)	

*1 missing

Race of Victim		
Caucasian	(57)	96.6%
Other	(2)	3.4%
Total	(59)	

Note: All percentages are based on individual table totals.

County police records and a series of semi-structured interviews with criminal justice personnel provided the information needed to conduct the study. The detective logs of the county sex unit were searched by a police detective in order to compile a list of sex crimes against children by month and county police case number. Specific files were then pulled from the central filing system and data collected from the narrative reports contained in these files. Interviews with a sample of police officers and prosecuting attorneys who had been involved with the center during the course of the project were conducted telephonically, ranging in length from 1–2 hours.[1]

Child Victims of Sex Crimes

Between January and June 1978, the county police investigated a total of 59 cases of sex crimes perpetrated against children.[2] Of the victims, 86.4 percent were female and predominately Caucasian (96.6 percent). Although the age of the victims varied, the majority (51.7 percent) ranged between the ages of 6 and 12 years. (See table 1.)

Suspects in these cases were almost exclusively male (93.2 percent) and Caucasian (91.1 percent), with 57.6 percent being adult and 30.5 percent juveniles. The data reflect the majority of the cases involved a family member or a person known to the victim. Family members accounted for 32.2 percent of the perpetrators, and 49.2 percent were known to the child, but were not related. Only 18.7 percent of the suspects were strangers to the child. (See table 2.)

In terms of assault characteristics, 45.8 percent of the assaults involved intercourse and 54.2 percent were child molestations. The assaults took place in the victim's home in 47.5 percent of the cases, in the suspect's home 32.2 percent, and 20.3 percent occurred in a public place. The frequency of the crime varied from a single offense (57.6 percent) to several offenses occurring over a period of more than 1 year (16.9 percent). Table 3 presents a summary of the assault characteristics.

It was also learned that most of the cases were reported within 48 hours of the last assault (46.5 percent). In only 10.3 percent of the cases was the crime reported more than 6 months after the last assault. Family members of the victim reported the crime in 55.2 percent of the cases. The remainder were made by the victim (10.3 percent) or bv someone other than the victim or family member (34.4 percent).

Police/Social Worker Cooperation

Social workers from the Sexual Assault Center, police officers, and members of the county prosecuting attorney's office worked together over a 2-year period in order to establish new procedures for dealing with the child victim of a sexual assault. Individual police officers and social workers would meet informally to discuss cases shared in common. Joint meetings between all involved would take place weekly. In addition, social work personnel participated in police and prosecuting attorney training sessions.

Both the formalized training sessions and informal meetings served as mediums for the exchange of information. In this way, social workers were able to increase their understanding of police procedures, rules of evidence, and the process of developing a case. Police personnel became more aware of offender psychology and the needs of sexually abused children and their families. These interactions aided police in improving their interviewing skills, especially those necessary to interview the very young or developmentally disabled child.

Both groups began to look upon each other as a source for consulation and referral. Social workers would frequently ask police officers if there was sufficient evidence in a case to pursue prosecution. Police would seek the advice of the social workers on how to handle a difficult case, for example, a young child who would not talk. Brochures describing typical child reaction to sex abuse and the criminal justice system's response to a police report were made available to police and social work personnel to be distributed to the parents of the victim.[3]

Social work personnel see their role with child victims and their families as having two major components—counseling and advocacy. Counseling includes immediate crisis counseling to help the child and his/her family overcome the immediate crisis reaction to the abuse and/or reporting the abuse. Advocacy efforts are directed toward working with the child and family to understand the criminal justice system and its procedures, in order that the victim(s) may make an informed decision about reporting and prosecution.

Table 2

Suspect Characteristics

Suspect Sex*		
Male	(55)	98.2%
Female	(1)	1.7%
Total	(56)	

Suspect Age in Years**					
12–16	(17)	32.1%	32–37	(4)	7.5%
17–21	(6)	11.3%	38–42	(7)	13.2%
22–26	(6)	11.3%	43–47	(5)	9.4%
27–31	(5)	9.4%	48+	(3)	5.7%
Total	(53)				

Victim/Suspect Relationship		
Stranger	(11)	18.7%
Family Member	(19)	32.2%
Nonfamily but known to victim	(29)	49.2%
Total	(59)	

Suspect Race*		
Caucasian	(51)	91.1%
Other	(5)	8.9%
Total	(56)	

**3 missing*

***6 missing*

Table 3

Assault Characteristics

How Reported to Police*		
Child Protective Service	(14)	24.1%
Victim's Family	(32)	55.2%
Victim	(6)	10.3%
Other	(6)	10.3%
Total	(58)	

Time Lapse Between Last Assault and Report*		
Less than 48 hours	(27)	46.5%
2 days–2 weeks	(11)	19.0%
2 weeks–6 months	(14)	24.1%
6 months or more	(6)	10.3%
Total	(58)	

Location of Assault		
Victim's Home	(28)	47.5%
Suspect's Home	(19)	32.2%
Public Place	(12)	20.3%
Total	(59)	

Frequency of Offense		
Single Offense	(34)	57.6%
Several, less than 1 year	(15)	25.4%
Several, more than 1 year	(10)	16.9%
Total	(59)	

**1 missing*

Police personnel would frequently inform victims and their families about the supportive counseling/advocacy available from social workers at the Sexual Assault Center. They reported that the availability of counseling and support services relieved them of the worry about emotional reactions and freed them to concentrate on the legal aspects of the cases.

Although formal training efforts appear to have been an important development in the close cooperative relationship between social work and police personnel, another important result is the close interpersonal relationship which developed over the 2 years of the project. This relationship is characterized by a sense of trust and mutual respect.

This relationship was formed, in part, by the social worker's emphasis on prosecution of the offender. Hence, a commonality of purpose between the police officer and social worker developed. Social workers became more knowledgeable of the legal process and increased their efforts to help the victims and their families understand this process.

On the part of social workers, the development of this relationship was facilitated by their view that involvement with the criminal justice system, when undertaken with the understanding of the child and his/her family, could be an important component of the treatment process. Such involvement communicates to the child and the nonoffending parent that the child will be protected from reabuse. This involvement also assists the offender in accepting responsibility for his behavior and to remain in treatment.

For the police, this close working relationship with social workers was based on the confidence that social workers now better understand the working of the criminal justice system and the realities and frustrations of the police role and responsibilities. Police voiced the opinion that they could rely on social workers to present accurately the problems and requirements of family involvement in the criminal justice system. In addition, they indicated that the availability of social workers to deal with the emotional reactions of sexually abused children and their families freed the police to pursue their investigative and reporting responsibilities.

Table 4

Outcome of Criminal Investigation

Unsolved	(5)	8.5%
Insufficient Evidence	(2)	3.4%
Family Not Prosecute	(16)	27.1%
Felony Charged	(36)	61.0%
Total	(59)	

Table 5

Last Assault and Outcome of Investigation by Time Lapse Between Last Incident and Report To Police*

	Unsolved	Insufficient Evidence	Family not Prosecute	Felony Charged	Total
Less 48 Hrs.	(5) 8.6%	(1) 1.7%	(7) 12.1%	(14) 24.1%	(27) 46.6%
2 Days–2 Weeks	—	—	(4) 6.9%	(7) 12.1%	(11) 19.0%
2 Weeks–6 Mos.	—	—	(3) 5.2%	(11) 19.0%	(14) 24.2%
6 Mos. or More	—	(1) 1.7%	(2) 3.4%	(3) 5.2%	(6) 10.3%
Total	(5) 8.6%	(2) 3.4%	(16) 27.6%	(35) 60.3%	(58) 99.9%

**1 missing*

Outcome of the Investigation

Police officers reported not liking to investigate cases of sexual assault against children. Their reasons included personal feelings of horror and shock at the abuse of small children and being uncomfortable when dealing with the emotional reactions of children and their parents. Many officers report a sense of relief when social workers are available to assist them in interviewing small children and in dealing with the emotional reactions of both victims and their parents.

Criminal cases involving the sexual abuse of children can be successfully investigated. Of the 59 cases studied, only 11.9 percent went unsolved or lacked sufficient evidence to file charges. A felony charge was filed in 61 percent of the cases, and in only 27.1 percent did the victim's family refuse to prosecute. (See table 4.)

Data are not available at this time on the reasons for refusal to prosecute. However, based on the experiences of police and social workers, ignorance about and fear of the consequences of involvement with the criminal justice system, pressure from the offender on the victim and family, or feelings that participation with the criminal justice system will have a traumatic effect can be motives for refusing to prosecute the offender.

One of the factors police frequently mentioned as the reason for their dislike of child sexual assault cases is that they received the report some time after the incident and this made processing the case difficult. Interestingly enough, although 46.6 percent of the cases in this sample were reported to police within 48 hours of the last assault, only one of the remaining cases, reported 6 months after the last incident, lacked sufficient evidence to prosecute. As can be seen in table 5, cases can be successfully investigated and charges filed even though some time had elapsed since the last incident.

Both the police and social workers involved believe that a cooperative handling of these cases was helpful to both the victim and family and resulted in a significant number of successful investigations. The efforts of these police and social work professionals suggest that their roles can be complementary and work toward the end that society and children are protected.

FBI

Footnotes

[1] This sample of the criminal justice system was not selected to be representative of all personnel either nationally or locally. No attempt was made to interview police from jurisdictions other than the county. Information obtained from these interviews may or may not reflect opinions of other police personnel. However, this information is presented to illustrate what is possible in terms of police and social worker cooperation.

[2] It should be pointed out that no other data either from a different or longer time period are available against which to compare the data reported here. County crime statistics and information reported similar to that which was generated for this report does not exist elsewhere. As a consequence, it is impossible to make any statements about the representativeness of these data. No conclusions will be made which are intended to reflect any population of child victims or offenders except the 59 cases for which data were collected.

[3] Copies of brochures and interview guidelines are available from the Sexual Assault Center, Harborview Medical Center, Seattle, Wash. 98104.

SPEEDOMETER EXAMINATION
AN AID IN ACCIDENT INVESTIGATION

By TROOPER DALE STONER
Accident Reconstruction Specialist
South Dakota Highway Patrol

and DR. ILYA ZELDES
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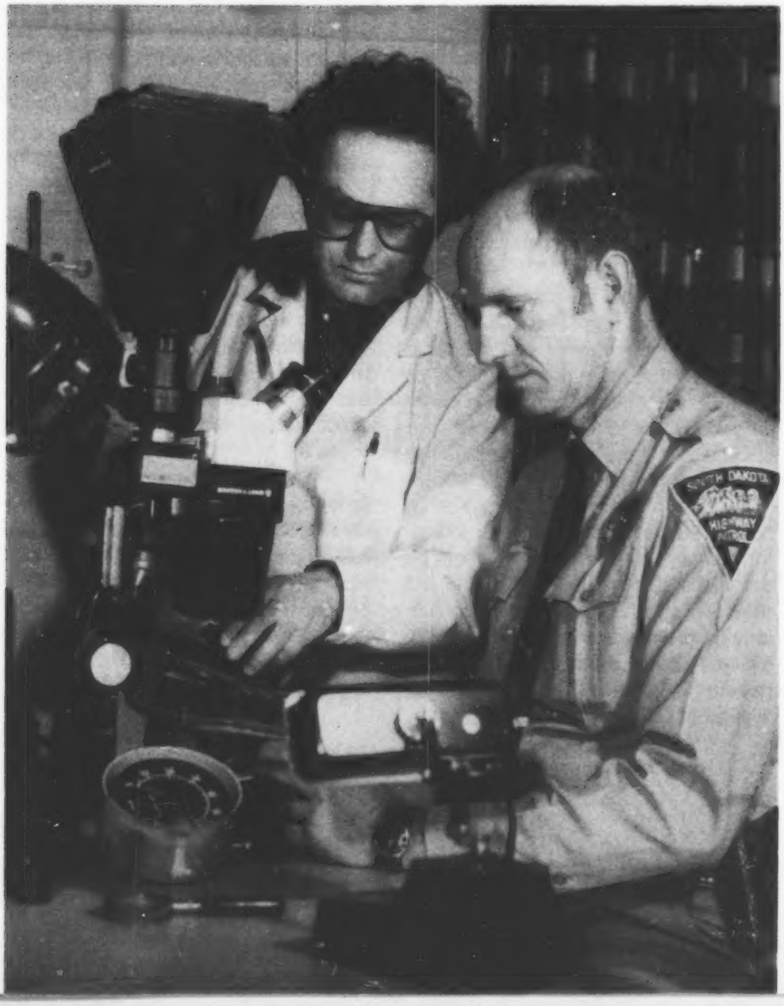

A very important factor to be determined in any accident investigation is the speed of the vehicle at impact. Law enforcement agencies employ various methods to determine this factor, the most common of which is skidmark analysis. Although this is a good method to use, there are many accidents in which skid marks are not left at the scene. Another way is to examine the vehicle and estimate the damages it sustained from the collision. In practice, these estimates are made by comparing the damages with those observed in other accidents in which vehicles collided with fixed objects at known speeds. However, in such cases, estimations depend more on guess and the officer's experience and familiarity with the results of similar collisions than on objective calculations.

Many times, especially in head-on or fixed-object accidents, there is little evidence found at the scene which can be used to determine vehicle speed. In head-on collisions, the damages may

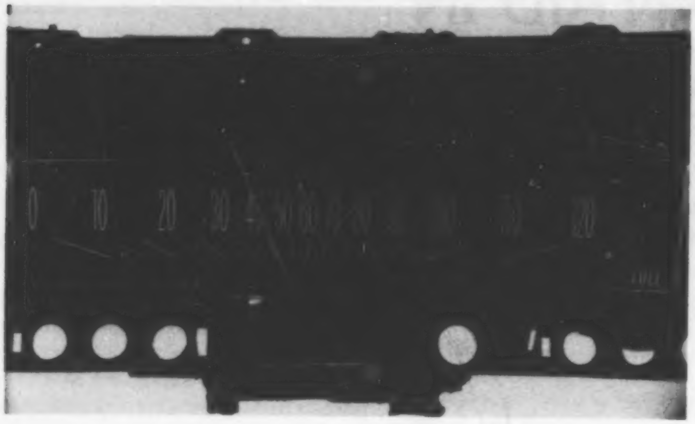

Photo 1—Needle jammed during collision indicates vehicle's speed at time of impact.

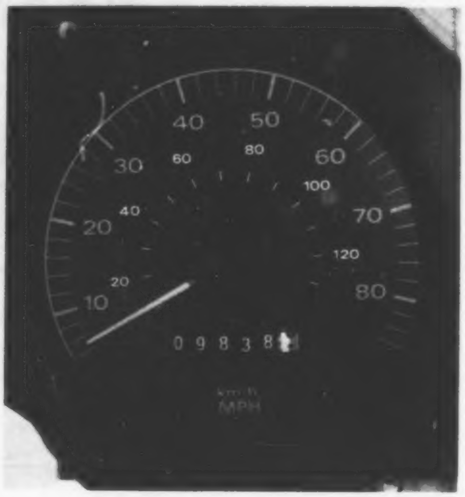

Photo 2—Although speedometer reads near zero after collision, other evidence indicates that vehicle was moving at time of impact; therefore, zero mph reading is not valid.

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be so severe and the approach and departure angles so critical that conservation of momentum equations are almost impossible to use unless the speed of one of the vehicles is known at the time of impact. Collisions into fixed barriers can also present problems when making speed calculations.

One of the other methods to determine vehicle speed at impact is to examine the speedometer, tachometer, and tachograph.

All passenger vehicles sold in the United States are required to be equipped with a device that indicates speed in either miles per hour (mph) or kilometers per hour (kmh) and is easily viewed by the driver. A vehicle may also have a tachometer to indicate the revolutions per minute (rpm) of the engine. Both instruments consist of a numbered dial and a needle or indicator. Usually, the scale and numbers on the dial's background are white, but they can also be multicolored, particularly on the newer models designed to indicate both mph and kmh. The needle is coated usually with an orange or red luminous paint.

The above-mentioned instruments have been installed in vehicles in one form or another since their origin, yet they are seldom used to determine the speed of vehicles involved in accidents. By examining the speedometer, the speed of the vehicle at the time of impact may be determined, but it should be remembered that a direct speedometer reading of a stuck needle after an accident may or may not be the impact speed of the vehicle. Many times, the indicator becomes jammed or stuck indicating a speed (see photo 1), but it is usually at or near zero. The amount of damage to the speedometer and the vehicle may suggest that the direct reading is or is not valid. (See photo 2.)

In some instances, head-on or fixed-object collisions may be so severe that the speedometer needle makes a mark (stamp) on the dial as it pushes against the face of the speedometer during impact. This stamp or mark can sometimes be seen with the naked eye. (See photo 3.)

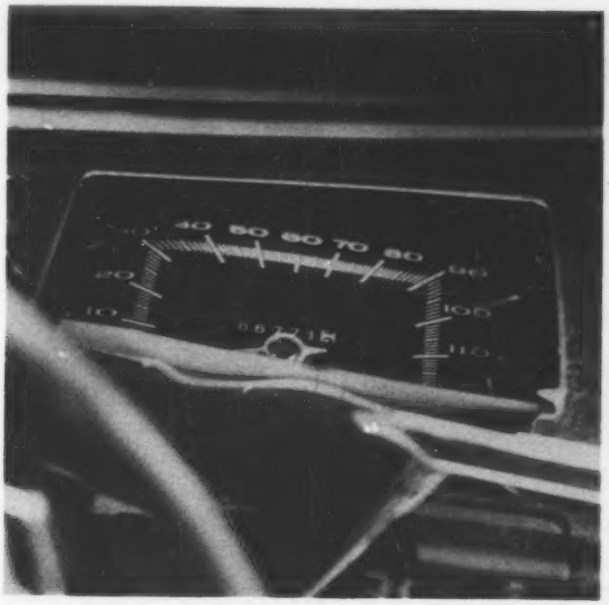


Photo 3—Closer examination of this speedometer revealed a mark near the 50 mph reading, even though the needle returned to zero.

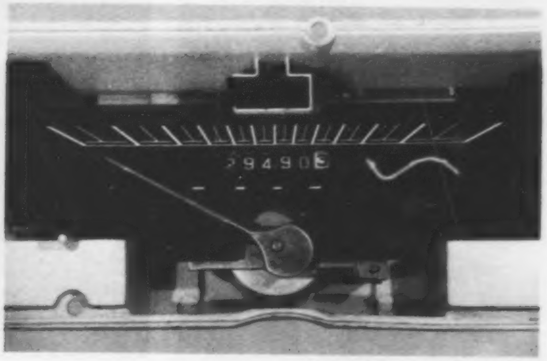


Photo 4—Speedometer with invisible needle marks photographed under normal light.

At other times, some part of the driver's body or other objects within the vehicle will come in contact with the speedometer during collision, bending the needle and causing it to push against the dial. The needle may stick in this position or it may not. If it sticks and all damage is relatively straight from front to rear, the location of the needle can very likely indicate the vehicle's speed at the time of impact. Again, damage and other evidence may substantiate if this speed is probable.

Examining speedometers of vehicles involved in accidents may not be feasible when the force of impact was from the rear. A rear-end collision will most likely move the needle away from the dial than toward it. If there are substantial skid marks prior to collision, the speedometer of the vehicle making the skid marks will probably register zero (or near zero) at the time of impact. And whenever the gear mechanism of the speedometer cable becomes inoperable, the needle will return to zero even though the vehicle is still moving.

When a passenger vehicle is struck from the side and has very little forward speed at the time of impact, chances are that no marks will be made on the speedometer dial by the needle. If the vehicle has a high rate of speed and is involved in a collision from the side, it is possible that there will be enough forward momentum to make marks on the dial.

There are also other marks which could be used for speed determination, even though the needle does not stay at the point that it struck the dial. These marks are the paint smears on the dial which the needle may have left at the time of impact. If the vehicle is being driven at a high speed and is involved in a collision from the front, side, or even rear, there may be enough forward momentum to cause these paint smears. However, these paint smears are not usually detected by the naked eye or a magnifying glass; laboratory examination is necessary.

The speedometer of a heavy truck that has collided with a standard-sized vehicle will very seldom receive enough force to cause paint smears. However, the truck may be equipped with a tachograph, which should be examined by the investigator. The disc of the tachograph should indicate any change in the truck's speed and the time of change.

Tachometers give the rpm of an engine and not the mph of the vehicle. Therefore, whenever any speed calculations are to be made from a tachometer, it is necessary to know the gear in which the vehicle was being driven and what speed will be obtained from the given rpm for that gear. For instance, if a truck has an accident while descending a grade, comparison of the tachometer findings with those found on the speedometer of the same vehicle may help determine the gear in which the vehicle was operating.

The success of any speedometer examination in the laboratory and its use as evidence is going to be valid only if the speedometer is properly removed from the damaged vehicle by the investigating officer. Occasionally, speedometers and tachometers can be cut out of the wreckage easily so

Jerry Baum, Director
South Dakota Highway Patrol

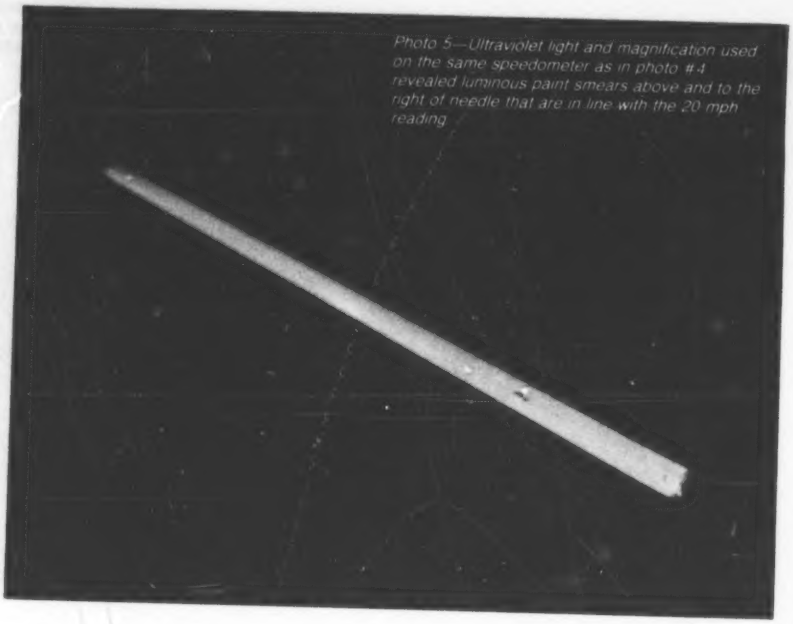


Photo 5—Ultraviolet light and magnification used on the same speedometer as in photo #4 revealed luminous paint smears above and to the right of needle that are in line with the 20 mph reading.

that they can be taken to a laboratory for examination. The following are guidelines for the removal of speedometers:

1) Photograph the speedometer, whenever possible, before it is removed from the wreckage.

2) Remove the complete instrument panel, if possible. On motorcycles, this would also include the tachometer.

3) Handle the speedometer gently. Try to remove the instrument panel without using a cutting torch. If a torch has to be used, cover the speedometer to protect it from heat and sparks, especially the dial and needle. When removing the speedometer with levers or pry bars, etc., be especially careful not to jar or further damage the speedometer needle or face. Often, it is better to cut the speedometer cable with a bolt or wire cutter several inches back from the speedometer head rather than trying to disconnect it. This will help prevent further damage to the interior of the speedometer.

4) Do not touch or wipe the needle or dial.

5) Do not rotate the needle or cable to see if the speedometer still works.

6) Do not shake or jar the speedometer.

7) Do not remove the cover glass. If the glass is broken, do not disturb the pieces, if possible.

8) Do not disassemble the speedometer.

As soon as possible after removing the speedometer or instrument panel, cover or wrap it with a plastic wrapping material or place it in a plastic evidence bag, paper sack, or any other clean and dry container to prevent further damage or contamination. This container should then be sealed, labeled, and identified by the investigating officer.

The removal of the speedometer can only be done within the legal procedures of gathering evidence. The investigating officer should maintain and keep short the chain of custody of such evidence, as with any other evidence. Therefore, delivery to the crime lab should be done as soon as possible, preferably by the investigating officer.

A request for examination should be submitted with the speedometer when it is delivered to the lab. This request or letter of transmittal should contain a short narrative of the accident, any speed calculations, other pertinent data, and the usual required information. This will help confirm the findings of the laboratory examination.

The laboratory examination consists of observation, microscopical analysis, and photomicrography under normal lighting conditions and ultraviolet light. During the laboratory examination, the speedometer or tachometer is initially observed and photographed under normal light. Examination under binocular stereoscopical microscope, in some instances, could reveal some indentations or scratches on the dial of the speedometer. Usually, no superimposition of foreign paint can be seen on the dial during this observation. (See photo 4.) The next step is examination under ultraviolet light. Any ultraviolet light source could be used, but high-intensity UV light is preferable.

Photo 6—Closeup of a small portion of the dial. The minute luminous particle of paint from the needle can be seen and easily distinguished from all other particles by its red color.

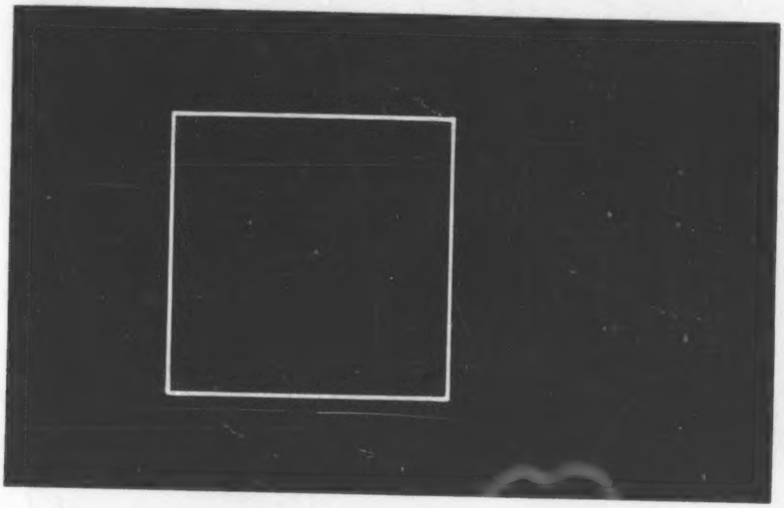


Photo 7—Ultraviolet photomicrograph of circled area in photo #6 shows the minute luminous needle mark at 62 mph.

The "Blak-Ray" Longwave UV Lamp, model B-100A, which is used in the crime laboratories for many other examinations, has worked successfully for the speedometer examination. If there are any transfers of luminous paint particles from the needle to the speedometer dial, they can usually be seen quite easily when observed under ultraviolet light through the stereoscopical microscope. (See photo 5.)

It is more difficult to take a photograph of these small particles under UV light than it is to observe them. In the South Dakota Division of Criminal Investigation Crime Laboratory, we are using a Nikon Multiphot camera with a Polaroid 4 x 5 Land film holder model 545, Polaroid 4 x 5 Land film Polacolor 2 Type 58, lens f=65mm, two UV lamps and a Wratten filter #15 (yellow) between lens and film. Under conditions listed above, the exposure varied from 30 seconds to 5 minutes, depending on intensity of luminescence, magnification, diaphragm (aperture of lens), and size of particles. (See photos 6 & 7.)

In some cases, a heavy smear may be found at the speed mark the needle was indicating at the time of collision. This smear may then go either toward a higher or lower reading. In such cases, when paint particles are spread on the large part of the dial, it is more difficult to determine the position of the needle and speed at the time of impact. In many other cases, when the paint particles are distributed on the dial as a straight line or as a row of dots from the pivot point of the needle outward to the edge of the dial, it is easy to determine the place of needle-dial contact, and consequently, the reading of the speedometer or the speed of vehicle at the time of impact.

FBI

Donald C. Licht, Director
Division of Criminal Investigation

Youth court in session.

A witness testifies during a court session.

Youth Court

One Way of Dealing With Delinquents

By JESSE SWACKHAMMER
Chief of Police (Retired)
Village of Horseheads, N.Y.

and CURTIS ROBERTS
Patrolman
Village of Horseheads, N.Y.

—A recidivism rate of less than 10 percent.

—Only two youths institutionalized out of 400 processed over a 3½-year period.

—A respect for and participation in the criminal justice system by the youth of the community.

And all of the above at an annual cost of less than $20,000. Sounds impossible? Not really. A viable program has been developed in our community. It took a great deal of volunteer time and enlightened community leadership to make the program successful. It uses volunteers and peer pressure, but most importantly, it works.

A defendant receives sentencing from judge.

What Is Youth Court?

Youth court is a delinquency prevention and control program patterned after the family court process. It has young people between the ages of 10 and 19 serving as judges, law guardians (public defenders), facts attorneys (prosecutors), and clerks in court cases of their peers. It derives its jurisdiction from local legal authorities who have given their support to this program.

The court usually convenes on Wednesday evenings. Offenders are brought to the court and are given an opportunity to plead their cases. The proceedings are held in strict confidence, with only the offender, the juvenile aid officer, the youth court, and the offender's parents present. The sessions are directed at attempting to show the first-time offender that not only was his act a crime but it was also wrong, at obtaining the reasons behind the offender's actions in committing the act, and at assigning a meaningful sentence, if the offender is convicted.

Jesse Swackhammer

Curtis Roberts

Chief Hendershott

No felony charges are handled by youth court. The primary offenses tried are petty larceny (shoplifting), criminal mischief, criminal trespass, and disorderly conduct.

It should be noted that in certain circumstances, the arresting officer has a great deal of latitude in determining whether a particular offense will be tried in youth court or family court. A youth caught inside a building could conceivably be charged with either burglary (a felony) or criminal trespass (a misdemeanor). If the charge is burglary, the youth automatically goes to family court. If, however, the charge is criminal trespass, the officer has the option of requiring the youth to appear in family court, or if he feels the youth should be given a second chance, of offering him and his parents the option of youth court. Most cases are first-time offenders for minor violations which, without youth court, would receive no attention.

The youth court is actually composed of four separate courts, each totaling 10 members. Each court consists of a head judge, two assistant judges, two law guardians, two facts attorneys, and two alternates.

To qualify for membership on the court, a youth must be between the ages of 10 and 19 and must volunteer for the program. He or she then goes through a 10-week, 20-hour training course, which is taught at least once a year by local qualified attorneys, judges, and teachers. The training is designed to give the youth a basic understanding of penal law, probation, family court, and the roles played by individuals within the criminal justice system. The course covers such topics as jurisdiction of the youth court, its advantages and disadvantages, ethics, courtroom procedures, and rules of evidence. An extensive part of the training involves participation in simulated hearings and role playing in mock cases.

At the end of the course, a comprehensive examination is given. Those who pass the examination are eligible to serve on the youth court. Selection of participating individuals is based strictly on grade achieved on the examination.

The minimum age is 16 years for judges and 14 years for attorneys. This avoids having a situation where a youth is given an assignment that he is incapable of handling.

Each of the four courts convenes monthly, so there is not an inordinate demand on the time of the volunteers. Having two alternates allows the court to convene in full session in the event one of the principal officers is unable to attend.

How It Works

The court has jurisdiction over youths, age 7 through 15. Referrals are made to the court only by police agencies. In our area, four separate police agencies—the N.Y. State Police, Chemung County Sheriff's Office, Elmira Heights, N.Y., Police Department, and the Village of Horseheads Police Department—make referrals to the court.

The following is a typical case from inception to conclusion. A youth commits an offense and is apprehended by an officer of a participating law enforcement agency. He is taken to police headquarters, where his parents are contacted and required to pick him up. The arresting officer has the option of sending the youth to family court, or if he feels the offender should have a second chance, he may offer the option of youth court. If he decides on this course of action, he will explain the function of youth court, and the parents and youth decide in which court they want to appear. The function of both family court and youth court is fully explained.

In the event the parents and the offender choose to go to youth court, they are given a court date. At least one of the parents must appear in court with the offender.

The case is referred to a juvenile aid officer to insure that the offender meets the eligibility requirements for youth court handling. At the court appearance, the offender is asked to plead guilty or not guilty before his peers. If the plea is guilty, the offender is questioned by the factfinding attorney in an effort to determine circumstances surrounding his act. The judge can also ask questions if he so desires. After hearing the facts, the court has several options. The disposition of the case can be:

1) Dismissed;

2) Suspended judgment (suspended work hours);

3) Can be sentenced to up to 50 work hours;

4) Conditional discharge and/or work hours;

5) Essay papers to be returned to the youth court, the juvenile aid officer, or the program coordinator; or

6) Mandatory attendance at traffic and/or criminal court.

Most offenders are given work hours that are performed under the supervision of the youth court coordinator.

An attempt is made to make the punishment fit the crime. If, for example, a youth has been convicted of vandalism for spray-painting the school halls, he might be sentenced to perform 20 hours of painting to correct the damage he has done. In other cases, an attempt is made to fit the punishment to some long-range career goal of the offender. A female who expresses an interest in nursing as a career might be sentenced to a specific number of work hours at a home for the aged. In virtually all cases the work sentence involves nonprofit agencies and/or community activities.

"A youth arrested . . . and referred to youth court has no criminal or juvenile delinquency record."

If the youth pleads not guilty, a factfinding hearing (trial) is held. Depositions obtained from the original complainant and the arresting officer are presented to the court. The offender may testify and may call witnesses. Very few factfinding hearings are held.

The requirement that at least one parent be present in the court at the time of the trial is both for the protection of the youth and for the enlightenment of the parents. On many occasions, parents have reported that the first time they became aware of the circumstances surrounding the offense was in court. They had previously attempted to talk to their children, but obtained only one- or two-word responses. Yet, when the youth was questioned by his peers in front of his peers, the same questions elicited much more complete and apparently honest answers. For some reason it is easier for a youth to answer questions from his peers than from an adult, particularly a parent.

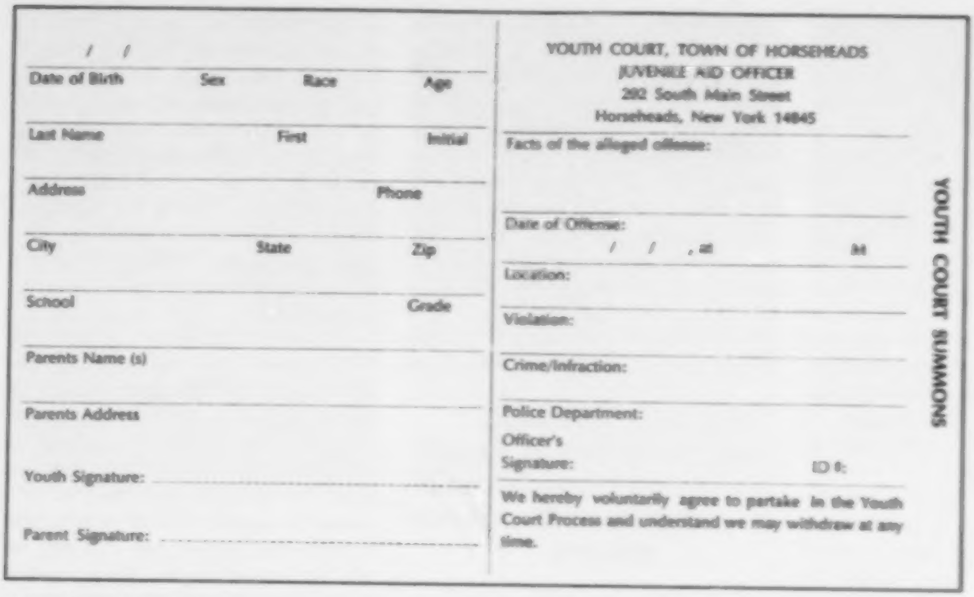
Effectiveness

Our community, like all communities, has the problem of dealing with the criminal element. Because of money and manpower constraints, minor offenses, particularly minor first offenses, have gone unpunished and even unnoticed. There is no point in issuing an appearance ticket to family court for a bicycle violation if the court will be unable to consider the case for a year or two.

Children learn by experience. They quickly learn that they can "get away" with things. In some cases, the incidents get progressively more serious, and when a juvenile is ultimately caught and punished for a serious violation, he tends to feel resentful and blame the system. In one way, he has a point—the system has told him he will be punished for doing certain things, and yet when he does these things, he is not punished. Why, then, is punishment being meted out this time? One obvious answer which occurs to the youth is that the system is unfair.

One of the big advantages of the youth court is that it provides a juvenile justice system which can and does deal with minor matters that would never be considered by family court, such as bicycle violations, snowball throwing, and truancy. By applying the laws consistently and fairly, we hope to instill in our youth an understanding and respect for the law and the criminal justice system. Our experience to date seems to indicate that it has been working. Out of 400 youths processed over a 3½-year period, only two have been institutionalized, and the overall rate of recidivism is less than 10 percent.

The overall rate might well have been much lower than 10 percent except for one factor. At one point during the functioning of this court, there was some laxity in providing supervision for the required work hours and in finding appropriate work to be performed. A relatively large number of youths who went through the procedure at that time later reappeared in the court. Be-



/ /

Date of Birth Sex Race Age

Last Name First Initial

Address Phone

City State Zip

School Grade

Parents Name (s)

Parents Address

Youth Signature:

Parent Signature:

YOUTH COURT, TOWN OF HORSEHEADS
JUVENILE AID OFFICER
202 South Main Street
Horseheads, New York 14845

Facts of the alleged offense:

Date of Offense:
/ / , at M

Location:

Violation:

Crime/Infraction:

Police Department:

Officer's Signature: ID #:

We hereby voluntarily agree to partake in the Youth Court Process and understand we may withdraw at any time.

YOUTH COURT SUMMONS

A sample youth court summons.

cause of this, procedures were tightened and supervision afforded during the work periods. It appears that a very significant part of the court's success is due not only to the trial procedure but also to the fact that the sentence must be carried out. Certainty of punishment, then, is identified as a significant factor in getting respect for the criminal justice system.

Because of the quasi-legal structure of the court and the voluntary nature of the procedures, one might expect some problems in compliance with the procedures and/or performance of the sentence. Strangely enough, this has been an almost nonexistent problem. As long as there is supervision in the assignment and performance of work hours, compliance is excellent.

Problems

Youth court was conceived by a number of public officials who were concerned about a lack of respect for the criminal justice system. In many cases, youths would commit petty offenses, and because of case load, nature of offense, etc., the family court and/or probation proceedings did not serve as a deterrent to future offenses. In order to stem the apparently growing disrespect for law on the part of youth, it was felt that it was necessary to create a system whereby they could be taught the functions of the criminal justice system and the relationship between crime and punishment.

Town officials were aware of a youth court in Oneida County and Tompkins County, N.Y., and a juvenile officer, as well as a member of the town's youth bureau, were detailed to research this project. They selected certain facets of these projects and attempted to apply them in this area.

The first step was a visit to the county probation officers in an attempt to elicit their support for such a project. This support was quickly obtained. The next step was a visit to family court, where the judge's support was solicited. A resolution by the town board gave the youth court quasi-legal status. This, combined with the support of the family court judge, provided the impetus needed to create the youth court.

There are two school districts encompassed in our court—the Town of Horseheads and the Village of Elmira. Officers of the court are drawn from these school districts. The concepts of the court and training sessions are explained to the students in law and society and civics classes. There were over 100 volunteers for the first 10-week training session, many of whom came more from curiosity than interest. After the first training session was completed, there were 40 qualified court members (four courts composed of 10 members each) and an additional waiting list.

As the first case was to be tried in youth court officials were extremely apprehensive concerning the proceedings. Interestingly enough, the youths comprising the court did an amazing job. The first case was an unlawful use of a motor vehicle (UUAV) and resulted in a relatively stiff sentence of work hours. The participants in the court took their roles seriously.

At the outset, an executive board composed of police, teachers, attorneys, probation officers, and concerned youth and adults from the community was created. We were concerned about the effect these proceedings would have not only on the offenders but also on those who were participating. Perhaps because the participants were volunteers the sessions went extremely well. Although the executive board still exists and the juvenile aid officer is present in the courtroom, no supervision is required.

A jurisdictional problem arose because our village is located within the Town of Horseheads and our population is largely bussed in from other localities. It was decided that youth court would handle only offenses committed within the Town of Horseheads (even if the violators lived outside the town limits). This required close coordination between the school authorities, the town board, the involved police agencies, the Probation Department, and the family court. Although the jurisdictional problem appeared insurmountable, it was easily solved by the cooperation of those involved. Additionally, a private high school within the public school district participates in the program and furnishes candidates for the court.

One might think that having youths appear before their peers would result in a "rumor mill" going through the schools concerning those who appear before the court. During the training sessions, however, prospective court officers are firmly informed of the need for confidentiality and it is explained to them that no court proceedings may be discussed outside the court. If such discussions should occur, the responsible court officer would be dismissed. Since the first session, July 1, 1976, there has been no breach of confidentiality.

The use of the youth court was not immediately accepted by the police agencies involved. Acceptance of this program by older officers was not easily obtained and not all officers support it now.

The Village of Horseheads Police Department furnished the first defendants to the youth court. After a few months of successful operation and a great deal of public relations work, the other police agencies in the area began using the court as a method of dealing with juvenile offenders.

"The greatest advantage . . . has been the creation of an awareness for and appreciation of the criminal justice system. . . ."

Advantages

A youth arrested and referred to youth court has no criminal or juvenile delinquency record. Summonses are not numbered. Of three copies, the first is given to the offender, the second to the court, and the third is maintained by the coordinator. The court keeps no records, so the first two are destroyed after completion of the proceedings. The third is maintained until the youth turns 16, at which time it is destroyed.

Many youths who appeared before the court subsequently underwent the training course and became members of the court. This had a positive effect on the student community, making them aware that the court was not composed of "goody two-shoes types." Additionally, those youths now serving on the court understand the pressures that affect the offenders standing before them. Many times they are able to use knowledge of these pressures to good advantage.

The annual budget for this court is well under $20,000. If one calculates the cost of institutionalizing even one offender, the court has paid its way many times over. Paid personnel for this system include a youth coordinator, who supervises the work hours and counsels youths, and a part-time juvenile aid officer, who is paid for his appearance in court during his off-duty time. Secretarial work is done by town secretaries on an availability basis. There have been minor expenditures for training aids, but in the beginning these aids were obtained on a voluntary basis by concerned citizens. Subsequently, a $26,000 Law Enforcement Assistance Administration grant was obtained to cover the initial operating budget. After the grant expired, the youth court was institutionalized by the town and funded through the town board.

The greatest advantage in the youth court has been the creation of an awareness for and appreciation of the criminal justice system by the youth of the community. They have an opportunity to become a part of the system and see how it functions. Indeed, as members of the court they make it function; they can appreciate the problems and the complexities that besiege our adult community. In some cases, they are made aware that there are no answers to problems which exist; however, they also become aware of the need to continue attempting to find solutions. FBI

Anyone interested in obtaining more detailed information on the Town of Horseheads Youth Court Project can obtain it by writing to:

Town of Horseheads Youth
Bureau
408 South Main St.
Horseheads, N.Y. 14845
Telephone: 607-739-0797

A Psychological Assessment of Crime
PROFILING

By RICHARD L. AULT, JR. and JAMES T. REESE

Special Agents
Behavioral Science Unit
FBI Academy, Quantico, Va.

Editor's Note: As an adjunct to its instructional programs in abnormal psychology, the Behavioral Science Unit, FBI Academy, Quantico, Va., has attempted to assist the law enforcement community in the preparation of psychological profiles in selected unsolved criminal cases. "A Psychological Assessment of Crime: Profiling" is the introductory article in a three-part series of reports on the use of psychological criminal analysis as an investigative technique. Subsequent articles will feature the specific application of this technique to lust murderer and arson-for-profit investigations.

During the summer of 1979, a woman in a suburban city on the east coast reported to the police that she had been raped. After learning the facts of this case, the investigating officer realized that this was the seventh rape within the past 2 years wherein the same *modus operandi* was used. There were no investigative leads remaining in any of these incidents. The investigation conducted thus far had yielded no suspect.

The incident reports, together with transcripts of interviews with the victims, were forwarded to the FBI Training Division with a request from the police department that a psychological profile of the suspect or suspects be provided. After careful examination of the submitted materials by the FBI Academy's Behavioral Science Unit, a psychological profile was constructed and provided to the requesting agency. The Behavioral Science Unit advised that these rapes were probably committed by the same person and described him as a white male, 25 to 35 years of age (most likely late 20's or

early 30's), divorced or separated, working at marginal employment (laborer, etc.), high school education, poor self-image, living in the immediate area of the rapes, and being involved in crimes of voyeurism (peeping tom). It was likely that the police had talked to the rapist in the past due to his being on the streets in the neighborhood in the early morning hours.

Three days after receiving the profile provided to them, the requesting agency developed approximately 40 suspects in the neighborhood who met the age criteria. Using additional information in the profile, they narrowed their investigation to one individual and focused their investigation on him. He was arrested within a week. This case demonstrates how psychological profiling can be of assistance.

The role of the police officer in American society has never been accurately defined. Daily, it seems, police are burdened with new responsibilities and are required to be experts in responsibilities already assigned to them.[1] There has, in recent years, been an increase in the public's awareness of the nature of police work. This additional insight has been provided primarily through the use of the media (TV, books, newspapers); however, this awareness is largely focused upon the police function of investigating crimes. Studies have indicated that criminal investigations actually occupy less than 15 percent of the police department's time.[2] The irony of this is that the function of investigating and solving crimes is extremely important to the public at large and is a major gage by which departments are rated by city officials who provide funding. This is especially true when a crime is committed which is so bizarre and shocking to the community that the public demands swift and positive action.

As the crime rate grows in this country and the criminals become more sophisticated, the investigative tools of the police officer must also become more sophisticated. One such sophisticated tool does exist and may help answer the question commonly voiced by police and others at the scene of a violent crime, "Who would do a thing like this?" This tool is the psychological assessment of crime—profiling.

The solution of crimes is the most difficult task for the police. The officer must arrive at the scene of a crime, work backward in an effort to reconstruct that crime, formulate a hypothesis of what occurred, and then launch an orderly and logical investigation to determine the identity of the criminal. During this process, items of evidence are carefully collected, identified, initialed, logged, and packaged for later examination, perhaps under laboratory conditions.

The purpose of this article is to acquaint the police officer with the fact that there are certain clues at a crime scene which, by their very nature, do not lend themselves to being collected or examined, and to familiarize the officer with the concepts of profiling. Clues left at a crime scene may be of inestimable value in leading to the solution of the crime; however, they are not necessarily items of physical evidence. For example, how does a police officer collect rage, hatred, fear, love, irrationality, or other intangibles? These aspects may be present at the crime scene but the untrained officer will miss them. Nothing can take the place of a well-executed investigation; however, the use of psychology to assist in the assessment of a crime is an additional tool which the police officer should use in solving crimes.

The purpose of the psychological assessment of a crime scene is to produce a profile; that is, to identify and interpret certain items of evidence at the crime scene which would be indicative of the personality type of the individual or individuals committing the crime. The term "profile" is defined in *Webster's Dictionary of the American Language* (1968)[3] as "a short, vivid biography briefly outlining the most outstanding characteristics of the subject." The goal of the profiler is to provide enough information to investigators to enable them to limit or better direct their investigations. For example, in one case, a profile provided enough information that officers recalled an individual whom they had already questioned that fit the profile description. When they returned to the individual, he confessed.

The officer must bear in mind that the profile is not an exact science and a suspect who fits the description is not automatically guilty. The use of profiling does not replace sound investigative procedures.

Profiling is not a new concept. During World War II, the Office of Strategic Services (OSS) employed a psychiatrist, William Langer, to profile Adolf Hitler. Langer assembled all that was known about Hitler at the time, and based upon the information he received, attempted a long-range "diagnosis," as well as some predictions about how Hitler would react to defeat.[4]

Police officers are often carefully trained in the techniques of crime scene searches. Forensic scientists constantly provide law enforcement personnel with the results of research which enable officers to maintain and update skills in gathering physical evidence. The concept of profiling works in harmony with the search for physical evidence. Behavioral scientists are busy in their attempts to research and catalog nonphysical items of evidence, such as rage, hatred, fear, and love. However, these attempts are usually oriented toward therapy rather than forensic applications.[5] Nonetheless, the results may be applied to teach police officers to recognize the existence of these emotions and other personality traits in a crime scene. Once recognized, police may then construct a profile of the type of person who might possess these emotions and/or personality traits.

The basis for profiling is nothing more than the understanding of current principles of behavioral sciences, such as psychology, sociology, criminology, and political science.

Behaviorial science is, at best, an inclusive science. It is often referred to as an "art form."[6] However, its use does have validity in law enforcement. Human behavior is much too complex to classify, yet attempts are often made to do so with the hope that such a vastly complicated system can be brought into some control. The Diagnostic and Statistic Manual of Mental Disorders (DSM II), used by mental health professionals, is one example of this attempt.[7] While attempts to neatly classify behavior are mostly unsuccessful, one must remember why these attempts are made. There are many types of "normal" and "abnormal" behavior.[8] Many of these behaviors may have a label attached to them by behavioral scientists. It is most important to bear in mind that such a label is merely an abbreviated way to describe a behavior pattern. It is nothing more than a convenience by which professionals communicate. The important aspect is the specific characteristics or symptoms of each person. The symptoms are revealed in the way the individual "acts out" and in the responses which the individual may make to the professional. The labels may differ from doctor to doctor because they are simply each doctor's interpretation of the symptom.

A symptom, then, is the "visible evidence of a disease or disturbance,"[9] and a crime, particularly a bizarre crime, is as much a symptom as any other type of acting out by an individual. A crime may reflect the personality characteristics of the perpetrator in much the same fashion as the way we keep and decorate our homes reflects something about our personality.[10]

A crime scene is usually confined to the area in which the crime was committed. For the purposes of this article, the term crime scene includes the following: The scene of the crime; the victim of the crime, as in the case of rape; and all other locations involved in the crime, including such areas as the recovery site when a homicide is committed in one location and the body deposited in another.

The victim is one of the most important aspects of the psychological profile. In cases involving a surviving victim, particularly a rape victim, the perpetrator's exact conversation with the victim is of utmost importance and can play a very large role in the construction of an accurate profile.

The profile is not all inclusive and does not always provide the same information from one profile to another. It is based on what was or was not left at the crime scene. Since the amount of psychological evidence varies, as does physical evidence, the profile may also vary. The profile information may include:

1) The perpetrator's race,

2) Sex,

3) Age range,

4) Marital status,

5) General employment,

6) Reaction to questioning by police,

7) Degree of sexual maturity,

8) Whether the individual might strike again,

9) The possibility that he/she has committed a similar offense in the past, and

10) Possible police record.

These profiles are not the result of magical incantations and are not always accurate. It is the application of behavioral science theory and research to the profiler's knowledge of patterns which may be present at various crime scenes.[11] It is important that the profiler have wide exposure to crime scenes so that he may see that these patterns may exist. It is also important that the individual attempting to profile crime scenes have some exposure to those criminals who have committed similar crimes.

The entire basis for a good profile is a good crime scene examination and adequate interviews of victims and witnesses. When officers find individuals who are willing to attempt psychological evaluations of crime scenes, they often ask the profiler what materials should be sent to him. Necessary items for a psychological profile include:

1) Complete photographs of the crime scene, including photographs of the victim if it is a homicide. Also helpful is some means of determining the angle from which the photographs were taken and a general description of the immediate area. One enterprising police officer developed the excellent technique of photocopying his crime scene sketch, attaching one copy to each photo, and then outlining in red the area which was included in the photograph.

2) The completed autopsy protocol including, if possible, any results of lab tests which were done on the victim.

3) A complete report of the incident to include such standard details as date and time of offense, location (by town as well as by actual site of incident), weapon used (if known), investigative officers' reconstruction of the sequence of events (if any), and a detailed interview of any surviving victims or witnesses. These items are usually a part of all investigations and do not generally require extra report writing or extra written material. Also included in most investigative reports is background information on the victim(s). Yet, this seems to be the area where the least amount of information is available to the profiler. Usually, this is because the investigative officer cannot possibly write down all of the many details concerning the victim which he collects while investigating the crime.

When the investigator provides information concerning a victim to a profiler, some items which the officer should include are:

1) Occupation (former and present),
2) Residence (former and present),
3) Reputation, at work and in his neighborhood,
4) Physical description, including dress at the time of the incident,
5) Marital status, including children and close family members,
6) Educational level,
7) Financial status, past and present,
8) Information and background of victim's family and parents, including victim's relationship with parent,
9) Medical history, both physical and mental,
10) Fears,
11) Personal habits,
12) Social habits,
13) Use of alcohol and drugs,
14) Hobbies,
15) Friends and enemies,
16) Recent changes in lifestyle, and
17) Recent court action.

The primary psychological evidence which the profiler is looking for is motive. After a survey of the evidence, the profiler applies an age-old rule known as "ockhams razor" which, originally stated, is "what can be done with fewer assumptions is done in vain with more." [12] This 14th century philosophy has, in investigative circles, generally come to mean that given a problem with several alternative solutions, the most obvious answer is usually correct. An aid to the application of ockhams razor is the intangible evidence that the observer gathers from the crime scene to tell him such things as whether the crime appears to be planned or whether it is the result of an irrational thought process.

Profiling is a valuable investigative tool but is not a magical process. Police officers do a great deal of profiling during the course of their work days. They constantly build mental images or profiles based upon crime scenes and then use these profiles in an attempt to limit the scope of their investigations. These profiles are based upon the officer's extensive knowledge of the type of crime he is investigating. When a crime so bizarre that it is out of the scope of the officer's experience occurs, there are behavioral scientists available who can assist by providing these types of profiles. The FBI provides limited service in the area of profiling and these limitations are based on the amount of time and manpower available to conduct such profiles.

Instruction is the primary purpose of the Behavioral Science Unit of the FBI Training Division. Courses in applied criminology, abnormal psychology, sociology, hostage negotiations, interpersonal violence, and other behavioral science-related areas are taught at the Academy to FBI Agents and police officers. In the past, as an adjunct to its instructional programs, the Training Division has attempted to assist law enforcement agencies with the preparation of psychological profiles. During the initial stages of the FBI's involvement in profiling, these profiles were limited to students attending the FBI National Academy. During the past year, however, over 100 unsolved cases have been received by the Training Division from law enforcement officers nationwide. Due to increased instructional and research commitments, it was necessary to implement guidelines and control measures to manage and monitor effectively this investigative technique.

It is most important that this investigative technique be confined chiefly to crimes against the person where the motive is lacking and where there is sufficient data to recognize the presence of psychopathology at the crime scene. Psychological analysis is not a substitute for basic investigative principles, and all logical leads must be exhausted before requesting this service. This technique is usually confined to homicides, rapes, etc., in which available evidence indicates possible mental deficiency or aberration on the part of the perpetrator. Cases will be profiled on a "time available" basis, with the more severe cases being given priority. It should also be understood that analysis is for lead value only, and clinical opinions will not be offered. Cases which, in the opinion of the Training Division, fail to meet these criteria will be returned to the requesting agency. Under no circumstances should physical evidence be transmitted to the Federal Bureau of Investigation, since the possibility exists that information received may not be returned to the agency.

An agency requesting a psychological profile should contact the Federal Bureau of Investigation field office located within the territory of the department and provide to them the information as requested herein. The agency should make it known to the field office that they are requesting a psychological profile from the Behavioral Science Unit, Training Division.

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Footnotes

[1] James Q. Wilson, *Varieties of Police Behavior* (Cambridge, Mass.: Harvard University Press, 1968), p. 30.

[2] George G. Killinger and Paul F. Cromwell, *Issues in Law Enforcement* (Boston: Holbrook Press, 1975), p. 212.

[3] *Webster's New World Dictionary of the American Language* (New York: The World Publishing Company, 1978), p. 1163.

[4] Walter C. Langer, *The Mind of Adolph Hitler* (New York: Basic Books, Inc., 1972).

[5] James C. Coleman, *Abnormal Psychology and Modern Life* (Glenview, Ill.: Scott, Foresman and Company, 1980).

[6] "Son of Sam: Implications for Psychiatry" (letter), American Journal of Psychiatry, 135 (1): 131, Jan. 1978.

[7] *Diagnostic and Statistical Manual of Mental Disorders*, 2d ed., (Washington, D.C.: American Psychiatric Association, 1968).

[8] Coleman, pp. 3–23.

[9] J. V. McConnell, *Understanding Human Behavior* (New York: Holt, Rinehart, and Wilson, Inc., 1974), p. 25.

[10] Sherrill Whiton, *Elements of Interior Design and Decoration* (New York: J.B. Lippincott Company, 1963), p. 751.

[11] R. Brittain, *The Sadistic Murderer*, Medical Science and the Law, Vol. 10, 1970, pp. 198–204; Donald Lunde, *Murder and Madness* (San Francisco: San Francisco Book Company, Inc., 1976).

[12] *The Encyclopedia of Philosophy* (New York: Macmillan Company, 1967), Vol. 8, p. 307.

Interview of Public Employees Regarding Criminal Misconduct Allegations

Constitutional Considerations

(Part 1)

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

Consider the following vignette:

Inspector: "Good afternoon Sergeant Wilson, I'm Inspector Johnson with Internal Affairs Division."

Sergeant: "Good afternoon, Inspector, what can I do for you?"

Inspector: "Well, as you may know, Internal Affairs is conducting an investigation into allegations that some officers of the department have received 'kick-backs' or 'payoffs' from certain individuals operating houses of prostitution under the guise of massage parlors. The allegations are rather specific, and frankly, some involve places of business within your precinct that you have investigated and reported on as being legitimate massage parlors. I would like to ask you a few questions regarding this matter. However, before I ask you any questions, since the matter does involve allegations of bribery, I want you to understand your rights." (The inspector then proceeds to read from a card the standard *Miranda*[1] warnings.) "Do you understand those rights I have just read?"

Sergeant: "Sure I understand, I've given those a thousand times myself . . . but does this mean I'm a suspect in the investigation?"

". . . 'after proper proceedings' a public employee can be compelled to answer his employer's work-related questions. . . ."

Inspector: "Well, as you probably know the purpose of our inquiry is *primarily* disciplinary. But, since it does involve possible criminal violations, I thought it best to give *Miranda* warnings. Sergeant Wilson, I also want to remind you of Police Department Reg. 20.5. This regulation reads as follows: 'All officers must, when requested by their superior officers or other employees authorized to inquire into any official matter, respond fully and truthfully to all questions regarding the performance of their official duties. Any failure to respond completely and candidly to such inquiries may be punished by appropriate disciplinary action, including dismissal'."
"Sergeant, do you understand that regulation?"

Sergeant: "Yes, I'm familiar with the requirement that officers account for their official action."

Inspector: "Good. Sergeant, are you familar with the Kitty Kat Massage Parlor, operated by a Louis Carson, also known as 'Lucky Louis'?"

Sergeant: "I don't think I should answer that question . . . at least without talking to an attorney first."

Inspector: "Are you refusing to respond to my question?"

Sergeant: "Well, you told me I could refuse to talk, didn't you?"

Inspector: "I also informed you of a departmental regulation that authorizes your dismissal for failure to answer my questions regarding your official duties."

Sergeant: "Well, I'm not answering any questions. If you want to talk to me about this further, contact my attorney."

Inspector: "Do you have his name?"

Sergeant: "No, I don't, but I'll call your office and leave it for you."
(at this point the officer exits)

How would you assess the above dialog? Was the sergeant justified in refusing to answer? Doesn't a police officer, like any other citizen, have a right under the fifth amendment not to answer questions that may subject him to criminal prosecution?

On the other hand, doesn't a police department, like other employers, have a right to ask an employee to explain his conduct in regard to his assigned duties? Must a police department continue to employ an officer who refuses to account for the performance of his official duties? More specifically, if the sergeant is disciplined or fired for his failure to answer, will such action be supportable if challenged in a legal proceeding?

Assume that the sergeant, after the second warning by the inspector, decided to answer the question posed and related questions, and the answers implicated him in a criminal conspiracy. Could these answers be used in a subsequent criminal prosecution of the sergeant or in a subsequent disciplinary proceeding to determine his fitness for continued employment?

This article will address and attempt to resolve these and other related questions that often arise when a public employee is called upon to respond to allegations that may involve criminal misconduct.

At the outset, it should be recognized that the scope of this discussion is limited to the rights provided and obligations imposed by broadly applicable U.S. constitutional provisions, although occasional reference will be made to statutory provisions common to many jurisdictions.

Additional restrictions or requirements may be placed on such interviews by State or local statutes or regulations, such as "Police Officers' Bills of Rights," "privacy acts," Civil Service regulations, or by collective bargaining agreements.

When allegations of criminal misconduct are made against a police officer or any other public employee, there is a strong need to resolve them fully and fairly. The investigation must be seen by both the members of the community and by employees of the department as diligent and impartial.

An error in the conduct of the investigation may result in valuable evidence being inadmissible in a later proceeding or in administrative action being undertaken that cannot be sustained under challenge. Any failure to resolve adequately the allegations and to follow through with appropriate criminal prosecution or administrative action, if warranted, will result inevitably in erosion of public confidence in the agency, and indeed, in Government generally.

". . . a public employee may not be fired for asserting his fifth amendment right when no immunity for use of his answers has been given. . . ."

One of the most frequently used investigative techniques for resolving allegations of criminal misconduct is to question the employee involved.

Whenever a public employee is being interviewed about a matter where there is a substantial risk that the employee may be subject to criminal prosecution for his actions, there are two competing and sometimes conflicting interests. The first interest is the need of Government to require its employees to account fully for their actions in the course of official duties. The second interest is the right of a public employee, guaranteed by the 5th and 14th amendments of the Constitution, not to be *compelled* to answer questions or make a statement which could be used against the employee in a subsequent criminal proceeding.[2]

The Supreme Court and other Federal courts, as well as State courts, have established certain legal principles to accommodate the legitimate interests of both the Government and the employee.

Part I of this article will examine three major principles that are well-established in this area of the law and explain the reasoning that forms the foundation for these principles.

The conclusion of the article (Part II), which will be published in the next issue of the *FBI Law Enforcement Bulletin*, will suggest, in more concrete terms, the procedures that may be used in such employee interviews to avoid violation of these principles.

Coerced Statements Will Be Inadmissible in a Criminal Prosecution

The Supreme Court has consistently held that a statement given by a public employee under an express threat of dismissal for failure to answer cannot constitutionally be used against the employee in a subsequent criminal proceeding. This principle was first announced by the Supreme Court in *Garrity* v. *New Jersey*, decided in 1967.[3] Garrity and other defendants in the case were police officers in certain New Jersey boroughs. A State deputy attorney general questioned the officers concerning allegations that they had been involved in the fixing of traffic tickets in their jurisdictions. Prior to the questioning, each officer was warned: (1) Anything he said could be used against him in any State criminal proceeding; (2) he had the privilege to refuse to answer if the disclosure would tend to incriminate him; but (3) if he refused to answer he would be subject to removal from office. The warning concerning removal from office was based upon a New Jersey statute which provided, in effect, that anyone who held a public office or employment and who refused to answer any material question regarding the performance of his official duties when asked by a proper official would forfeit such job.[4]

After receiving the above warnings, the officers answered the questions. Some of the answers given were used against the officers, over their objections, in later criminal prosecutions for conspiracy to obstruct the administration of the traffic laws.

The Supreme Court reversed the convictions because, in the opinion of the Court, the statements obtained from the officers were coerced by the threat of loss of their jobs, and the use of the "involuntary" statements in a criminal proceeding violated the Due Process Clause of the 14th amendment. The Court stated that "policemen . . . are not relegated to a watered-down version of constitutional rights," and that "the protection of the individual under the Fourteenth Amendment against coerced statements prohibits use in subsequent criminal proceedings of statements obtained under threat of removal from office. . . ."[5]

The *Garrity* prohibition against use of statements obtained after an *express* threat of dismissal for failure to answer has been consistently adhered to by Federal and State courts.[6] It should be recognized that when an officer is being interviewed by a superior officer or an internal affairs officer, there will be some inherent coercion, particularly if the department has a regulation that appears to require an officer to respond to inquiries as to his official duties. The Supreme Court has not ruled on whether an *implied* threat of dismissal may make such a statement inadmissible. Some Federal courts have indicated that an *implied* threat of termination may make such a statement inadmissible.[7] Several courts have taken the view that if no reference at all is made to adverse administrative action prior to the employee making a statement, then the statement will be considered "voluntary" and hence admissible.[8] A few courts have adhered to this view even when a job forfeiture statute was on the books and it appeared likely the employee was aware of it, when no reference was made to the provision in the course of the employee's interview.[9]

It seems fair to say that if there is no direct or clearly implied threat of dismissal, the courts will generally look to all the surrounding circumstances to determine, on a case-by-case basis, whether or not the employee's statement is voluntary. This approach is consistent with that taken by the Supreme Court in the ordinary confession case when the issue is the voluntariness of the statement.[10]

A Public Employee May Not Be Fired Solely For Asserting His Constitutional Rights

The next major principle laid down in this area by the Supreme Court also arose from an investigation into allegations of criminal misconduct on the part of a police officer. In *Gardner* v. *Broderick,*[11] a New York City officer was subpenaed before a county grand jury that was investigating alleged bribery and corruption of police officers in connection with unlawful gambling operations. He was informed of the purpose of the investigation and that he was to be questioned regarding his official duties. He was advised that he had the right, under the U.S. and New York State Constitutions, to refuse to testify against himself or to answer any questions that would tend to incriminate him. He was then requested to sign a "waiver of immunity," which would have acknowledged that any statements he made could be used against him in a later criminal proceeding. He was also told that pursuant to a New York State constitutional provision and the New York City Charter, he would be fired if he refused to sign the waiver of immunity. These provisions required public officers and employees to answer any questions put to them by a proper authority or a grand jury regarding the performance of their official duties and stated that failure to answer or to sign a waiver of immunity would result in forfeiture of employment.[12]

The officer refused to sign the waiver, and he was discharged *solely* for this refusal. The Court ordered the officer reinstated, declaring the job forfeiture provision, as applied, was violative of the officer's fifth amendment guarantee against compelled self-incrimination.[13]

The Supreme Court has reiterated this principle in several later cases,[14] and it has been followed and applied by numerous Federal and State courts to invalidate statutes or regulations that provide for forfeiture of Government employment as a penalty for the employee's assertion of the fifth amendment privilege or for failure to sign a "waiver of immunity" form.[15]

Although the Supreme Court has made it clear in *Gardner* and subsequent cases that a public employee may not be fired for asserting his fifth amendment right when no immunity for use of his answers has been given, the Court has been careful to note that these cases do *not* hold that a public officer may never be required to account to the Government for the performance of his official duties. In *Gardner* the Court stated:

> "If appellant, a policeman, had refused to answer questions specifically, directly, and narrowly relating to the performance of his official duties, without being required to waive his immunity with respect to the use of his answers or the fruits thereof in a criminal prosecution of himself, the privilege against self-incrimination would not have been a bar to his dismissal."[16]

In *Uniformed Sanitation Men Association* v. *Commissioner,*[17] a case decided the same day as *Gardner,* which also involved public employees who were fired for refusing to testify concerning their official duties based upon the same New York City Charter job forfeiture provision, the Supreme Court again explained this distinction:

> "(I)f New York had demanded that petitioners answer questions specifically, directly, and narrowly relating to the performance of their official duties on pain of dismissal from public employment without requiring relinquishment of the benefits of the constitutional privilege, and if they had refused to do so, this case would be entirely different. In such a case, the employee's right to immunity as a result of his compelled testimony would not be at stake. But here the precise and plain impact of the proceedings against petitioners as well as of § 1123 of the New York Charter was to present them with a choice between surrendering their constitutional rights or their jobs. Petitioners as public employees are entitled, like all other persons, to the benefit of the Constitution, including the privilege against self-incrimination. . . . At the same time, petitioners, being public employees, subject themselves to dismissal if they refuse to account for their performance of their public trust, *after proper proceedings, which do not involve an attempt to coerce them to relinquish their constitutional rights."* (Emphasis added)[18]

". . . [this] 'immunity' . . . is simply protection against the use of compelled statements and their fruits in a criminal prosecution."

A Public Employee Can Be Compelled to Answer Work-Related Questions

Although the principle that "after proper proceedings" a public employee can be compelled to answer his employer's work-related questions was first stated by the Supreme Court in the above-mentioned cases, the task of establishing precisely what constitutes "proper proceedings" has been left largely to lower Federal and State courts.

A case which illustrates the approach that most courts have taken and which appears consistent with the Supreme Court's view on the issue was decided by the U.S. Court of Appeals for the Second Circuit in 1970, *Uniformed Sanitation Men Association* v. *Commissioner* (hereafter cited as Uniformed Sanitation Men II).[19] This case involved the same parties and arose from the same factual background as the Supreme Court case, *Uniformed Sanitation Men Association* v. *Commissioner* (hereafter, Uniformed Sanitation Men I), mentioned previously. After the Supreme Court held their firings improper, the employees were reinstated. On the same day, one of the employees was called before an inquiry being conducted by a high-ranking official of his department. The employee was advised that (1) he had a right to remain silent, although he could be subject to disciplinary action by the department for failure to answer material and relevant questions relating to the performance of his official duties, and (2) the answers he might give, or any information or evidence gained by reason of those answers, could not be used against him in a criminal proceeding, except for any false answer that could constitute a violation of applicable law.

Following this warning, the employee failed to answer several questions directly relating to the performance of his duties. It was stipulated that each of the other employees, if called, would follow the same course of action. Later, the employees were charged with misconduct for refusing to answer the questions, and after continuing their refusals to answer the relevant questions, were fired.

The court of appeals, in upholding the dismissals, reasoned that once an employee is assured that neither his answers nor their fruits may be used against him in a criminal prosecution, the employee is no longer faced with a choice between self-incrimination or job forfeiture. The court noted that:

> "In a case like this the state is asserting not its interest in the enforcement of the criminal law but its 'legitimate interest as an employer.' (citation omitted) To require a public body to continue to keep an officer or employee who refuses to answer pertinent questions concerning his official conduct, although assured of protection against use of his answers or their fruits in any criminal prosecution, would push the constitutional protection beyond its language, its history or any conceivable purpose of the framers of the Bill of Rights." [20]

Federal and State courts have generally adopted the approach and reasoning of the court of appeals in *Uniformed Sanitation Men II.*[21]

It should be recognized that the type of "immunity" referred to in these cases is simply protection against the use of the compelled statements and their fruits in a criminal prosecution. This immunity arises directly from the fifth amendment protection against the use of compelled statements in a criminal proceeding. No statutory immunity procedure is necessary for an employer to grant such immunity, because when the employer compels a statement upon threat of firing, the "immunity" arises by operation of law.[22] It should also be recognized that the protection is very similar to "use" immunity as opposed to "transactional" immunity. That is, the employee enjoys no protection against criminal prosecution based upon the same actions for which he is required to account to his employer, but only the *use* of his answers, or information gained by use of them (often referred to as the fruits), in the prosecution.[23] The Supreme Court has ruled that "use" immunity is sufficient to satisfy fully a witness' fifth amendment privilege against compelled self-incrimination and the broader "transactional" immunity, which protects against any prosecution arising from the offense to which the compelled testimony relates, is not constitutionally required.[24]

The three principles discussed may briefly be summarized as follows:

1) As a matter of constitutional law, any statement given by a public employee based upon a threat of dismissal from his job if he fails to respond will be inadmissible against the employee in a subsequent criminal proceeding.

2) An employee who is being uestioned in any proceeding about a atter which could result in a criminal rosecution of him may not be disharged solely for invoking his fifth mendment privilege and refusing to nswer or for refusing to sign a waiver f immunity.

3) A public employee does have n obligation to answer his employer's vork-related inquiries. Therefore, if an mployee is assured that his answers r information obtained as a result of hose answers cannot be used against im in a criminal proceeding and that e may be disciplined or discharged for ailure to respond, then he may properly be disciplined or discharged for any refusal to answer such questions.

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Footnotes

[1] In *Miranda* v. *Arizona*, 384 U.S. 436 (1966), the Supreme Court held that when an individual is in police custody or otherwise deprived of his freedom of action in any significant way, and police desire to question him, he must first be advised of certain rights set forth in the *Miranda* opinion. These rights consist primarily of the right to remain silent and the right to assistance of an attorney.

[2] U.S. Const. amends. V and XIV. The fifth amendment states in part: "No person shall . . . be compelled in any criminal case to be a witness against himself. . . ."

The 5th and 14th amendments provide that Federal and State governments may not deprive any person of "life, liberty, or property, without due process of law. . . ." These provisions are often referred to as the Due Process Clauses.

[3] 385 U.S. 493 (1967).

[4] N.J. Rev. Stat. § 2A:81-17.1 (Supp. 1965). The statute is set out in *Garrity* v. *New Jersey*, *supra* note 3 at 495.

[5] *Garrity* v. *New Jersey*, *supra* note 3, at 500.

[6] *Commonwealth* v. *Triplett*, 341 A.2d 62 (Pa. 1975).

[7] *Womer* v. *Hampton*, 496 F.2d 99, 107-108 (5th Cir. 1974).

[8] *People* v. *Wenstrom*, 356 N.E.2d 1165 (Ill. Ct. App. 1976); *Commonwealth* v. *Kelly*, 369 A.2d 438 (Pa. Super. 1976).

[9] *Commonwealth* v. *Kelly*, *supra* note 8; *DiCiacco* v. *Civil Service Commission*, 389 A.2d 703 (Pa. Comwlth. Ct. 1978) (dictum).

[10] *Brady* v. *United States*, 397 U.S. 742 (1970); *Davis* v. *North Carolina*, 384 U.S. 737, 741 (1966).

[11] 392 U.S. 273 (1968).

[12] The provisions, section 1123 of the New York City Charter and section 6 of article I of the New York Constitution, are set out in the *Gardner* v. *Broderick* opinion, *supra* note 11 at 275.

[13] *Gardner* v. *Broderick*, *supra* note 11, at 279.

[14] In *Lefkowitz* v. *Turley*, 414 U.S. 70 (1973), the Supreme Court invalidated certain New York statutes which provided that any public contractor who refused to testify before a grand jury or refused to waive his immunity from prosecution would suffer cancellation of current State contracts and be barred for 5 years from other State contracts. In *Lefkowitz* v. *Cunningham*, 431 U.S. 801 (1977), the Court enjoined enforcement of a similar New York statute providing for automatic forfeiture of a political party office for refusal to answer questions or waive immunity before a grand jury inquiring as to the conduct of the office.

[15] *Confederation of Police* v. *Conlisk*, 489 F.2d 891 (7th Cir. 1973), *cert. denied*, 416 U.S. 956 (1974); *Dwyer* v. *Police Board of City of Chicago*, 334 N.E.2d 239 (Ill. Ct. App. 1975); *Luman* v. *Tanzler*, 411 F.2d 164 (5th Cir. 1969), *cert. denied*, 396 U.S. 929.

[16] *Gardner* v. *Broderick*, *supra* note 11, at 278.

[17] 392 U.S. 280 (1968).

[18] *Id.* at 284-85.

[19] 426 F.2d 619 (2d Cir. 1970), *cert. denied*, 406 U.S. 961 (1972).

[20] *Id.* at 626.

[21] *Hank* v. *Codd*, 424 F.Supp. 1086 (S.D.N.Y. 1975); *McLean* v. *Rochford*, 404 F.Supp. 191 (N.D. Ill. 1975); *Seattle Police Officer's Guild* v. *City of Seattle*, 494 P.2d 485, 491 (Wash. 1972); *Eshelman* v. *Blubaum*, 560 P.2d 1283 (Ariz. Ct. App. 1977).

[22] *Uniformed Sanitation Men II*, *supra* note 19, at 627; *Hank* v. *Codd*, *supra* note 21, at 1087.

[23] *Uniformed Sanitation Men II*, *supra* note 19, 627-28.

[24] *Kastigar* v. *United States*, 406 U.S. 441 (1972); also see the Supreme Court's discussion of the sufficiency of "use" immunity in the context of compelled statements from public officers and employees in *Lefkowitz* v. *Cunningham*, *supra* note 14, at 808-809.

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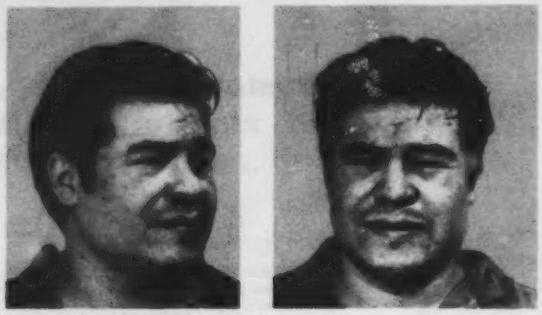

Photographs taken 1978.

Gilbert Juarez

Gilbert Juarez, also known as Bilbert Gardea Juarez, Gil Juarez, Gilbert Chino Juarez, "Batman," "Chino."

Wanted for:

Interstate flight—Murder, Escape.

The Crime

Juarez, a convicted murderer and avowed member of a west coast prison gang, is wanted as an escapee from custody and for an additional gang-related homicide. He reportedly has threatened prosecution witnesses in the past and has been convicted of assaulting police officers.

A Federal warrant was issued for his arrest on January 8, 1979, at Bakersfield, Calif.

Criminal Record

Juarez has been convicted of driving while drunk, possession of a weapon, assault with a deadly weapon on a peace officer, murder, armed robbery, and conspiracy to murder.

Description

Age	28, born May 20, 1951, at El Paso, Tex. (not supported by birth records).
Height	5'4".
Weight	180 pounds.
Build	Heavy.
Hair	Brown.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	American.
Occupation	Welder.
Scars and Marks	Tattoos: Spider on chest; two hearts with "VIRGINIA" and "GILBERT" on chest; heart with "BECKY" and large scroll on upper right arm; "SPOOK" in hat on lower right arm; cross on outer left arm; spider web left arm; spider left wrist; two roses inner left leg; large scroll with name blacked out on lower inner right leg.
Remarks	Reportedly an excessive drinker of alcoholic beverages.
Social Security Nos. Used	557-80-4986 555-84-2986.
FBI No.	290 798 H.

Caution

Juarez should be considered armed, dangerous, and an escape risk.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data:

NCIC Classification:

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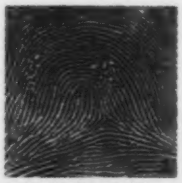

Left ring fingerprint.

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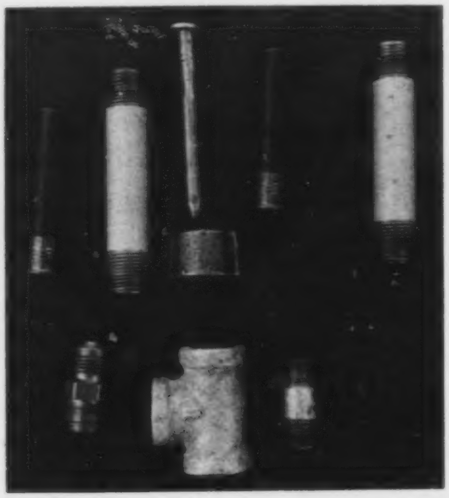
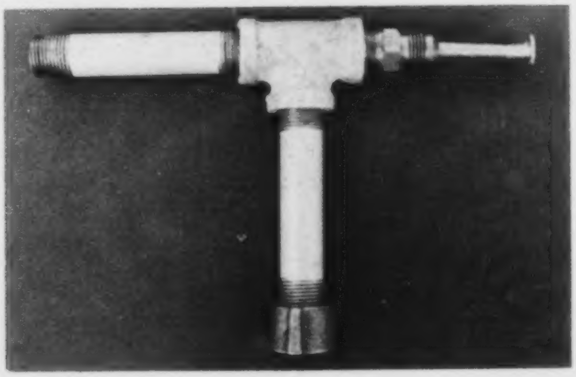
Pipe Pistol

A .410-gage pistol made from plumbing supplies (see photographs) was recently confiscated by the Muncie, Ind., Police Department. The necessary parts are available in almost any hardware store, and when assembled, can create an effective weapon. A large spike nail is used to fire the device, and the grip with a pipe cap provides storage for an extra round of ammunition.





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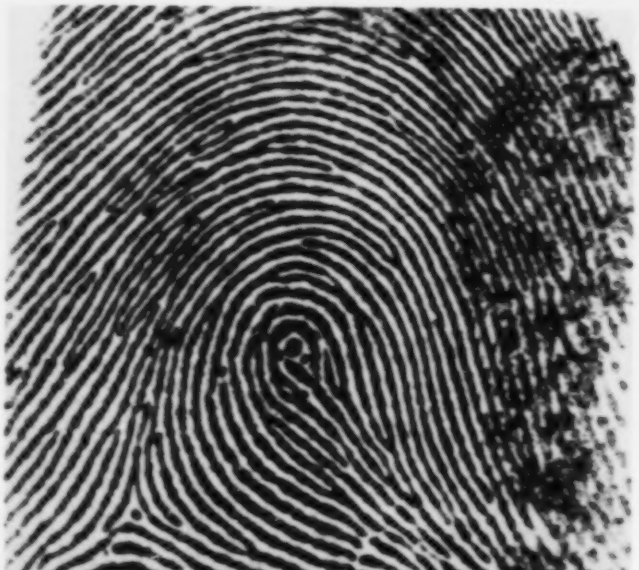
Interesting Pattern



This impression has the general appearance of a loop-type pattern. However, close scrutiny of the center of the impression reveals a single ridge making a complete circuit. The pattern possesses the minimum requirements of a whorl; two deltas and a recurve in front of each. It is, therefore, classified as a central pocket loop-type whorl with an outer tracing.

49/4

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FBI LAW ENFORCEMENT BULLETIN

APRIL 1980, VOLUME 49, NUMBER 4

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A patrol boat and helicopter of the Portsmouth, Va., Police Department respond to a call.

Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

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"Training Wheels" for Police

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By ROBERT CLARK STONE
Commissioner
Bureau of Training
Kentucky Department of Justice
Richmond, Ky.

The mobile unit concept for police training was first designed and used by the New Jersey State Police Training Commission, which purchased two units in 1966 under a Federal grant. However, when the attorney general of New Jersey ruled that the commission had no legislative authority to conduct training, only to oversee training procedures, the units were phased out. Arkansas followed suit and operated a mobile unit because of the lack of adequate training facilities throughout the State. As individual police agencies began building their own training classrooms through Federal and State grants, the State discontinued use of a mobile unit for training.

POLICE MOBILE TRAINING UNIT
Facilities

Commissioner Stone and instructors Robert Plomshe and Frank Boyer.

Commissioner Stone

Kentucky purchased its first mobile unit under a grant from the Law Enforcement Assistance Administration (LEAA) administered by the Kentucky Crime Commission. The unit became operational October 12, 1970.

Why Use a Mobile Classroom?

Historically, police training has been conducted in any available facility. Some of the largest police departments have had training classrooms for many years. Training for other police officers has been conducted in schoolrooms, courtrooms, churches, local conference rooms, and auditoriums. Occasionally, hotel or motel meeting rooms have been used when funds were available.

Most of these facilities proved to be unsatisfactory. I can recall setting up a classroom in the courthouse, carrying projectors, screens, film, slides, and notebooks to the third floor, teaching for 30 minutes, and then being told that the judge had an unexpected hearing so class would have to be canceled or moved elsewhere for the rest of the day.

One January day, in a mountain town in eastern Kentucky, we held a class on searches and seizures in a circuit courtroom. Late in the morning we inquired about two citizens in the back of the room. The court clerk explained, "Oh, they run a little moonshine still out in the country during the summer, but it's too cold this time of year, so they just hang around the courthouse to keep warm."

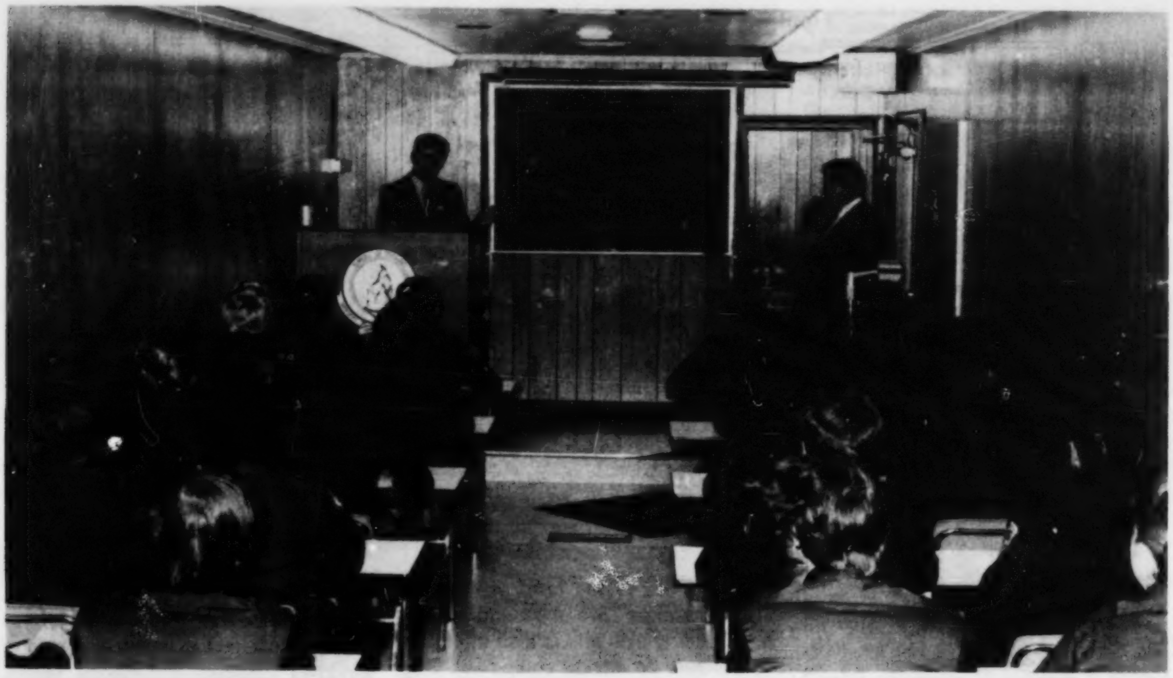
We didn't disturb them. Perhaps, they learned some valuable lessons about their rights under the fourth amendment. Yet, even if a room were available, there were constant problems, including:

—Outside noise (if others were not disturbing us, we were often disturbing someone else),
—Heating and ventilating,
—Lighting (including the ability to darken the room for visuals),
—Electrical outlets (often unavailable or of the wrong kind),
—Seating and other furniture,
—Configuration of the room (often the wrong size or arranged in a manner not conducive to training),
—Parking (police often comment that when a *television* detective goes about his duties he never has trouble finding a place to park. In training, the most desirable sites are often the least accessible, due to parking problems).

The mobile unit can solve all these problems. All equipment and supplies can be carried in the unit. Another important factor is that the unit is highly visible. Police chiefs and their officers report that they are proud to show the people in their communities that they are hosting training sessions. Officers from neighboring towns are notified in advance that the mobile unit will be set up on the police lot or in a shopping plaza.

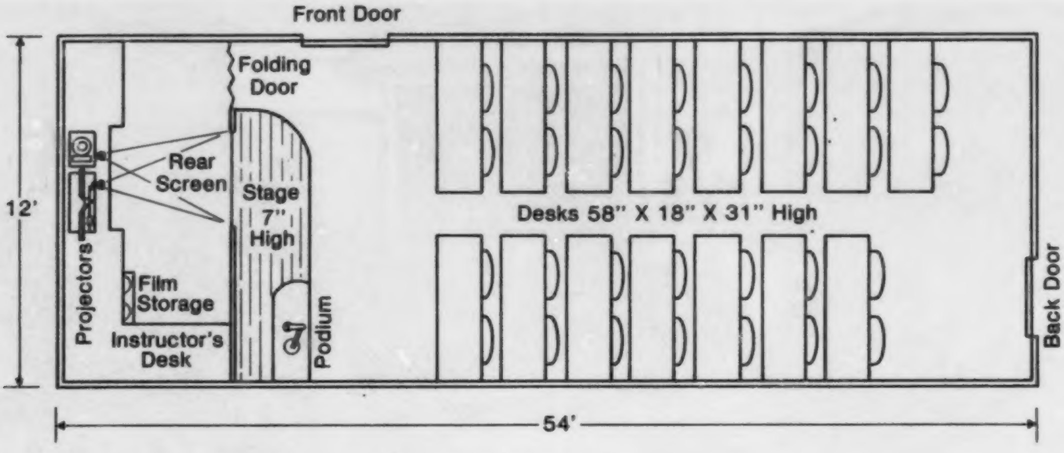
The configuration of the mobile classroom has proved to be remarkably adaptive to police training. Several years ago, Dr. Joseph Liff of Adelphi University, Garden City, N.Y., conducted classes in a railroad car to enable commuters to complete their requirements for a master's degree while riding to work. In answering a question as to whether the tunnel-like classroom was suited to instruction, he replied, "I am ready to redesign every classroom in the building here and make them long and narrow."

In Kentucky, we have found that this configuration is the best possible one for police training. The instructor stands on a platform about 7 inches high. He has direct eye contact with every member of the class, and when visuals are shown on the screen, every class member has a direct and unobstructed view. The acoustics of the mobile unit are also far better than most classrooms, minimizing outside distractions.



Instructors present a class on police stress in the unit.

Police officers participating in a training session.



NOT TO SCALE

Specifications

The Kentucky Bureau of Training has actually owned two mobile units. During a session at Lebanon, Ky., in the fall of 1978, after the mobile unit had traveled 75,000 miles, it was necessary to have the trailer hitch welded and tightened. The class took a long break because of the resulting noise. However, a fire caused by the welding torch destroyed the unit almost immediately. The insurance company paid the full amount of the policy for the unit and its contents. Thereafter, a second unit was purchased and built with the following dimensions:

Length: 54 feet
Width: 12 feet
Height: 11 feet, 6 inches
Seating Capacity: 30 students and 3 observers.

The unit has been designed to withstand structural strains resulting from frequent relocation. Removable stabilizing jacks, five on each side, are used to level the unit. They are held securely in place by a steel pin attached to each jack. The jacks are manually operated, since electricity is seldom available at the time the mobile unit arrives at a new location. Leveling bubbles, designed to aid in leveling the unit, are installed above each jack. Once this facility has been leveled, it is solidly installed, and vibration is almost nonexistent.

An office in the front of the unit accommodates two instructors and their training aids and is also the location of rear projection equipment. The wall between the instructors' office and the classroom contains a chalkboard which lowers to uncover the rear projection screen. A remote control for the projectors is set up on the instructors' podium, and a sound amplifier is located in the instructors' office.

Power is supplied by the host agency, using the 100-foot cable attached to the unit. Service is 100 ampere, 110/220 volt single phase. The mobile unit has become so popular in many cities that a permanent junction box has been installed to accommodate the unit when it arrives.

A heat pump provides comfortable heating and air conditioning. The heat pump is rated at 36m Btu for heating and 35m Btu for cooling, with the thermostat located on the wall next to the instructors' podium.

The steps for the unit, constructed of heavy-duty extruded aluminum, are stored in the unit during transport. A rubber-coated chain seals the steps to the unit.

Lessons Learned

We made many mistakes with the first unit built, one of which was having windows installed. Experience taught us that there was less distraction, less light problem, and less change necessary when visuals were shown if there were no windows. Class breaks on the hour give the instructors and students a chance to walk outside, smoke, and exercise between sessions.

The original unit contained aluminum wiring, which was replaced at an early date since it was damaged by the friction involved in moving the unit. Copper wire is now used.

The second unit is more sturdily constructed. The mobile unit can travel thousands of miles and sustain rugged travel conditions if it is built to last.

The location of the doors in the mobile unit was changed when it was realized that the unit might be impossible to evacuate if doors were all on one side. There is now a large door at the front of the classroom and a door on the end. If the unit were to turn over, it would still be easy to get out. The conventional door between the office and classroom was abandoned in favor of a folding door to conserve space.

An instructor prepares a rear-view projector prior to an audio-visual presentation.

A student is welcomed to the unit by Commissioner Stone and police instructors.

Carpeting in the first unit was changed to heavy-duty industrial vinyl flooring in the second, because it was learned that plaster of paris and mud were almost impossible to clean up with the unit's vacuum sweeper.

The original unit also had a self-contained gasoline generator for its power source. This was removed because the noise and vibration made it impractical to use while classes were in session. The new unit uses only electrical current provided by host cities.

Conventional speakers provided with audio-visual equipment were found to be inadequate. The new unit contains six high-quality overhead speakers spaced throughout the length of the classroom.

The original unit contained folding chairs. Mobile unit II is equipped with more comfortable chairs for students, an improvement much appreciated.

Mobile unit I and the New Jersey units were equipped with Edex Multi-Phase instructional systems. This type of teaching aid was abandoned when the second unit was built, because it was unnecessary and seldom used.

The desks in mobile unit I were constructed of pressed wood covered with formica. Despite all warnings, students had a tendency to sit on them. The desks currently used will sustain weight of more than 300 pounds.

The platform in front of the unit used by instructors originally created a traffic hazard as class members entered and exited. It was rounded as a safety factor. Coat racks for 24 garments were installed in the rear of the unit, and aluminum steps replaced the heavy iron ones. A small refrigerator in the office is constantly used to preserve undeveloped film and occasionally serves to keep students' medication cool.

Costs

Inflation is reflected in the cost of mobile training units:

Trailer	1966—New Jersey units—10′ × 60′ each—$16,412 1970—Kentucky mobile unit I—12′ × 54′—$28,700 1979—Kentucky mobile unit II—12′ × 54′—$46,785
Tractor	1970—For mobile unit I—$3,533 1979—For mobile unit II—$13,255

Of course, the new tractor and trailer are much improved over their predecessors. The current unit is more solidly constructed and furnished with better and more sophisticated equipment. The original tractor was underpowered, and an engine had to be replaced for that reason.

Training Programs

Kentucky does not mandate training for police. The fact that approximately 5,000 law enforcement officers have attended mobile unit training can be attributed to a pay-incentive program that encourages training and to the success of the mobile unit programs themselves.

Experience taught us that the mobile unit is not adaptable to basic training. Too much of hands-on instruction, including self-defense, firearms, and physical fitness, must be conducted at a police academy. But, for 1-week programs it has proved to be our most effective and least expensive means of training. (Meals and lodging are paid at the academy in Richmond, Ky.) Each year at a Command Decisions Course all the State's police chiefs are questioned as to the courses most needed. The following courses have been taught in the mobile unit program:

1970 Elementary Police Information

1971 Narcotics and Dangerous Drugs

1972 Police Investigations

1973 Breaking and Entering and Related Subjects

1974 Penal Code (New Kentucky Code)

1975 Basic Refresher

1976 Crime Prevention

1977 Juvenile Delinquency and Child Abuse

1978 Major Case Investigation

1979 Legal Issues and Stress

1980 Officer Survival

The mobile unit will be sent to a locality only at the request of the chief of police. When the request is granted, police and sheriffs of agencies surrounding the host department within approximately 80 miles are invited to participate. The host chief assures the Bureau of Training that the classroom will be filled. Training is provided at no cost to the officers or their employing agencies.

Staff

It takes an unusual and highly dedicated police instructor to conduct mobile unit training. The supervisor in charge of the program has been working in the mobile unit since October 1972, and has one assistant. These instructors sometimes team teach, but usually one of them will go to the host city on Sunday, prepare the unit, welcome the students, and teach the first 2½ days. The second instructor will complete the training session, test the students, close the unit when they leave, and prepare it for moving. These instructors report that they are able to maintain close liaison with the students, learn a great deal about the local communities where they are teaching, and establish rapport among the students who feel more at ease with their friends and neighbors than they would in an academic environment far from home.

A driver, who is under contract with the Bureau of Training, transports the unit from town to town. Since this travel is over the weekend, it does not interfere with his usual occupation of transporting trailers.

Fringe Benefits

Mobile unit training has proved invaluable on a number of occasions. When the unit was in Corbin, Ky., a bank robbery occurred less than 500 yards from the training location. Alerted by radio, the entire class responded. A search by the class of a wooded area resulted in the arrests of the subjects.

"Training is provided at no cost to the officers or their employing agencies."

In Elizabethtown, Ky., a subject barricaded himself in his home, resisting arrest. When he saw the class of 25 officers arrive, confronted by this overwhelming show of force, he promptly surrendered.

Although the mobile unit is plainly marked for police training, each year a class is interrupted by a knock on the door by a local resident requesting a chest X-Ray.

The unit is often used in the evening for community projects. During training sessions in crime prevention, business and professional people, as well as home owners, were invited to tour the mobile unit and observe the locks and alarm systems on display. Instructors were invited after class to visit some local places of business. Recommendations were made by the instructors as to means by which security could be improved.

A number of evening sessions were held by the Bureau of Training's Legal Services Division for judges and prosecutors who were invited to discuss methods of improving criminal justice and promoting cooperation in the communities involved. Boy Scouts and Explorer Scouts have been invited to participate in evening sessions to learn fingerprinting and demonstrate achievement of merit badge requirements.

After the training sessions on legal issues and stress, short courses were conducted on spouse awareness, including films for family members on stress problems unique to law enforcement.

The narcotics and dangerous drugs course, taught in 1971, was considered by chiefs of police to have contributed substantially to a 271-percent increase in the number of drug-related arrests by local police officers the following year.

With increased transportation costs and shortage of fuel for individual officers and departments, we believe mobile unit training will continue to be a feasible, effective, and comparatively inexpensive method of continuing a high level of law enforcement training.

Kentucky has found "training wheels" so successful that we have constructed similar units outside the walls of the State penitentiary and the reformatory for the purpose of training correctional officers. These units are set up permanently at those locations.

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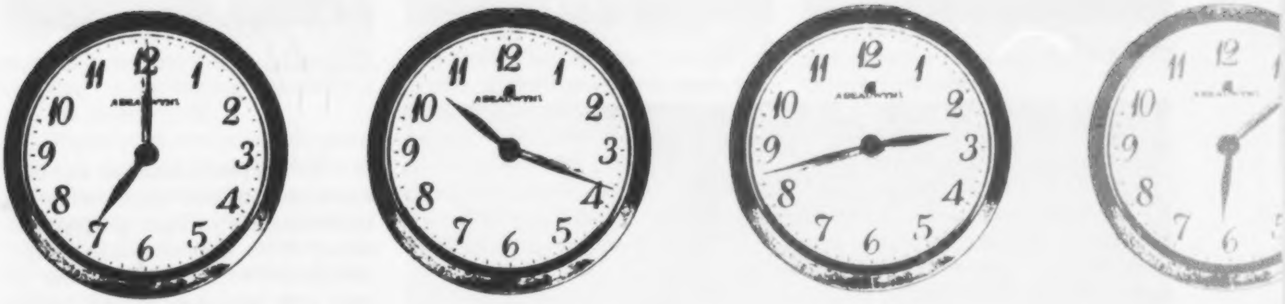


EVERETT'S 12-HOUR SHIFT

By CAPT. GIL DAVIS and
JAMES J. TRACY, Ph. D.
Police Department
Everett, Wash.

Change, especially large-scale change, always creates organizational stress, even though the change may be to everyone's benefit. Hence, a move from established practices must be well-planned and carefully implemented. In addition, any change should be aimed at greater achievement of departmental goals or at least toward creating a more goal-oriented atmosphere within the department.

The Everett, Wash., Police Department has implemented a large-scale schedule change in its patrol division, consisting of a 12-hour shift, 4 days on and 4 days off. The rationale in implementing such an unusual schedule was simple. The many constraints placed on police administrators—pension laws, Civil Service rules, working agreements, and personnel ordinances—leave little room for innovation. Police administrators, therefore, must be constantly alert for methods of maximizing effectiveness, regardless of how unusual those methods may be.

A False Start

In 1976, the patrol division was using a days-on-off system. For several years, this consisted of an 8-hour shift, 7 days on, 2 days off, 8 days on and 4 days off. This system gave patrol personnel a 4-day weekend every 3 weeks. This system meant that 1 day a week relief squads were working in addition to the regular squads. This day was termed "training day" but was ordinarily used for paying back compensatory time. A suggestion was made to the department's administration to try a 12-hour shift with 4 days on and 4 days off. While the suggestion was met with mixed reactions, it was agreed that the 12-hour shift would be tried on a small scale.

Captain Davis

Dr. Tracy

James L. Perin
Chief of Police

The 12-hour shift allows more time for officers and their wives to socialize with one another.

The trial period lasted for less than a year and was over-shadowed by the implementation of team policing. Because of the administration's greater commitment to team policing, the 12-hour shift was discontinued without being evaluated.

In 1978, a new police chief made a commitment to conduct a feasibility study on a 10-hour day. This was seen as a compromise to those who still desired a 12-hour shift. After evaluating available information on the 10-hour day, the administration concluded that such a shift was not cost-effective.

A New Beginning

In October 1978, the decision was made to submit a 12-hour interest questionnaire to the patrol division. Over one-half of the officers on patrol indicated a preference for the 12-hour shift. In addition, the chief of police alerted the department's consulting psychologist of the possibility of a 12-hour shift, asking for any clear evidence of negative effects upon officers. In the absence of evidence against the 12-hour shift, a "go-ahead" seemed reasonable. The psychologist recommended that performance measurements be maintained, as well as indicators of stress. Based upon this, the 12-hour shift was implemented on nights, effective January 1, 1979. The implementation of this project began with the selection of volunteer personnel. Seniority, experience, training, and special qualifications also played a role in the selection process.

Officer Response

The overlap of shifts that developed as a result of the implementation of the 12-hour shift was a new experience to the department. After having worked a few weeks under this new concept, patrolmen indicated some inconvenience in obtaining vehicles during overlap periods. A formal request was made of 12-hour shift officers to state, in writing, their opinions of the shift. The response was immediate and indicated overwhelming satisfaction with the 12-hour shift.

Shortly after evaluating this information, a questionnaire went out to all patrol personnel requesting their reaction to converting all patrol shifts to 12 hours. Fifty-eight of 59 officers indicated they would voluntarily work the 12-hour shift.

The intent to implement the 12-hour shift throughout the patrol division was announced departmentwide. Personnel assignments were made almost entirely on officers' indicated preferences. The increased available personnel also resulted in the creation of a traffic enforcement unit. The reorganized shift schedule became effective on June 1, 1979.

Evaluation

Once the administration decided to implement the 12-hour shift, a commitment was made to evaluate it. Evaluation was viewed as a rational basis for further decisionmaking and change. In the case of the 12-hour shift, evaluation appeared to be the best way of answering anticipated inquiries or criticisms. The patrol captain, along with the consulting psychologist, designed the evaluation process.

Two evaluation methods were used—subjective response of officers and measurement of objective performance indicators. The first method included patrolmen's responses to a questionnaire aimed at measuring differences between the 8-hour and 12-hour shifts. The questionnaire was developed from written reactions gathered earlier. To encourage candid answers, the questionnaires were completed anonymously and sent to the psychologist's office with the assurance that only group data would be used.

The second method of evaluation was based on more objective data. Information as to the number of arrests, citations given, sick leave, etc., was gathered monthly for each officer on patrol and summarized in computer printouts. The second method of evaluation was used to contrast the 8-hour and 12-hour shifts on each of these objective factors.

Findings

A more-detailed statistical analysis of this project is contained in "An Evaluation of a 12-Hour Shift." [1] What follows are the highlights of the statistical analysis.

The patrolmen's responses to the questionnaire indicated greater satisfaction with the rotation of days off, greater opportunity to complete work, higher morale, and a more-positive relationship with their families. These findings were consistent regardless of age or years of service. Finally, no single element in the questionnaire was rated lower for the 12-hour shift than for the 8-hour shift.

Nine objective factors were collected on each patrolman for 6 months—May, July, and September of both 1978 and 1979. The months of July and September 1978, were 8-hour shifts, July and September 1979, were 12-hour shifts, and May 1979, was a mixture of the two shifts. This allowed for a comparison between shifts for the same months in different years. Initially, assists on the 12-hour shift were significantly lower than on the 8-hour shift. Subsequently, however, this finding was reversed.

A sample of 17 officers who worked all 6 months was obtained. Each of the elements used for rating the 8-hour months were grouped together and contrasted with the 12-hour months. There were more reports on the 8-hour shift, but there were no significant differences on the other factors, although there was some indication that the 12-hour shift had more assists and less sick leave taken.

Because it is commonly believed that response time is related to fatigue, one might suspect that the response time would be slower toward the end of the 12-hour shift, compared to the end of the 8-hour shift. An analysis of response times revealed no differences between the shifts.

Conclusion

In reviewing the statistical findings, the response of the patrolmen appeared to be overwhelmingly in favor of the 12-hour shift. The performance indicators of this study did not show the 12-hour shift superior to the 8-hour shift. Yet, on the other hand, there was no clear evidence of deteriorating performance. Increased officer satisfaction, then, appears to have been obtained without a decrease in performance.

In spite of a false start, implementing the 12-hour shift caused no insurmountable problems. Participative management has had a major effect on the success of the project. Beginning the program as strictly voluntary helped to avoid problems. Moreover, the evaluation of this change reinforces the need to go beyond opinion and bias to a systematic evaluation of goal achievement.

Finally, the 12-hour shift offers benefits to all involved—the officers benefit from a stress-relieving work schedule, while the citizens benefit from the manpower increase and the improved quality of service provided.

FBI

Footnote

[1] Charles Davis and James Tracy, *An Evaluation of the 12-Hour Shift*. Technical Report, Everett, Wash., Police Department, 1979.

A Procedural Model for Processing Citizen Complaints

By LT. DOROTHY D. KNOX
Police Department
Detroit, Mich.

In order to develop and maintain the confidence of the public, a police agency should be responsive to the citizens it serves. One way of doing this is to develop and maintain an open and effective procedure for investigating citizens' grievances filed against police officers during the performance of their duties.

Most police agencies have devised methods for processing citizen complaints; however, these methods are frequently viewed with suspicion by both the police officer and the public. The officer is leery of being made an example of by the administration, while citizens often allege that police investigators tend to coverup or "whitewash" the actions of police officers.

The nature of police work makes it vulnerable to complaints, both real and imagined. Police work is unlike any other vocation in a number of ways, all of which contribute to the problem of misconduct and the frequency of complaints:

"Police service is one of the few occupations in which a substantial part of the clientele does not appreciate the service, and the police are sometimes asked by others to ignore violations of the law for one reason or another.

Most police officers are conspicuous in attire and in their vehicles, making their actions, both good and bad, more noticeable.

Enforcement of the law often creates resentment, which sometimes becomes vindictive and personal.

Police officers are exposed to temptations not often found in other forms of work.

Officers in the field usually work without direct supervision, a fact that creates additional opportunity for misconduct.

The public tends to be more critical of the police, who are expected to exhibit a higher level of conduct and behavior than others. When they do not exhibit this higher degree of good conduct, complaints are generated.

The nature of the work occasionally attracts persons who have antisocial or brutal tendencies.

Emotion-charged situations are frequently encountered during police contacts such as arrests and interviews at crime scenes. The emotion can obscure the reason and judgment of both police officers and citizens." [1]

Thus, while full and fair investigations must be provided, proper safeguards must also be taken against unwarranted complaints.

When it is believed that a false complaint is being reported, the citizen should be advised of the consequences of making such a charge. When the complaint is lodged in person, the citizen should sign the complaint statement as being factual.

Complaints should be fully investigated and reported on promptly, with both the citizen and involved police officer being promptly notified of the disposition. The success of any system of internal investigation by police personnel depends upon the honesty of the investigators and their ability to ferret out and report the truth, however unpalatable that may be, and for the administration to take whatever disciplinary or training action is required.

Police administrators should realize that burying complaints and/or investigations, depending solely upon the initiative of the complainant, or failing to take disciplinary or corrective action when necessary will ultimately lead to the type of situation the administration seeks to avoid—the loss of public confidence and low police morale.

In the past, there had been considerable sentiment expressed by persons outside law enforcement to establish civilian review boards to investigate or adjudicate allegations against the police. Undoubtedly, one of the reasons for this has been the tendency of the police to avoid making fair and vigorous investigations of alleged wrongdoings within its own ranks. What has been described as the "blue curtain" has all too often been drawn over police misconduct. There are numerous reasons for this, among them the feeling by the police that they are vilified by a growing segment of the public and therefore must band together for self-protection. Additionally, some misguided administrators believe that conducting vigorous internal investigations is tantamount to admitting failure; the opposite is probably closer to the truth.

This article suggests a model procedure for the receipt, assignment, and investigation of citizen complaints. This procedure is, perhaps, best implemented in a relatively large department where a unit for handling citizen complaints has already been established.

First, a citizen complaint report (CCR) form must be designed to standardize reporting. The form can be preprinted with spaces at the top for routine identification information regarding the complainant, witnesses, officers involved, date and time of incident, etc., and room at the bottom for a brief statement of the complaint. In addition, the forms can be prenumbered to assist in estabishing an accounting system. A multiple-copy form would be ideal.

"The nature of police work makes it vulnerable to complaints, both real and imagined."

When a written citizen complaint report is made, the complainant is given a copy of the complaint and has the opportunity to review the complaint statement before signing it. The complainant should then be advised that he will be contacted by an investigator in a few days and will perhaps be asked to provide additional information.

Citizens making complaints are referred to the complaint unit where grievances may be reported in person, by telephone, or by letter. All citizen complaint report forms are kept at the unit. In larger agencies, consideration should be given to providing CCR forms to the various precincts so that

Lieutenant Knox

William L. Hart
Chief of Police

citizens may report grievances to supervisors there. Ultimate control of the numbered complaint forms should remain the responsibility of the citizen complaint unit. Complaints on the numbered form, wherever taken, should be immediately forwarded to the complaint unit for logging and assignment to investigators. Two log books, one alphabetical and one numerical, should be maintained at the citizen complaint unit for easy access and recall of any complaint.

If, for any reason, a citizen complaint report form is rendered unusable (i.e. torn, spoiled, soiled) it should be marked "VOID" and forwarded to the citizen complaint unit. A report should not, for any reason, be discarded. The citizen complaint unit should then void the report in its log book and file it for future reference. Quarterly and annual audits of the numbered forms should be made in order to maintain the integrity of the accounting system.

Generally, complaints should be assigned to the command of the officer(s) against whom the complaint is made. This commanding officer then assigns the complaint to a supervisor for investigation. Complaints involving unknown or more than one command, those originating from an attorney, and those of a sensitive or controversial nature should be retained at the citizen complaint unit for investigation.

When the case is assigned to a command other than the citizen complaint unit, the commanding officer should designate one or more officers, sergeant or above, to conduct the investigation. Under no circumstances should the officer against whom the complaint is made be assigned to conduct the investigation. The lowest ranking officer assigned to the investigation of the complaint should be superior in rank to the highest ranking officer against whom an allegation of misconduct is made. When the case is assigned for investigation at the citizen complaint unit, where investigators are generally all sergeants, the rule regarding rank will not apply, except when ordering statements. Of course, only a superior officer can order another officer to make an oral or written statement.

". . . while full and fair investigations must be provided, proper safeguards must also be taken against unwarranted complaints."

The complaint should be investigated by supervisory personnel, who gather evidence and conduct interviews of all persons known to be involved, including police officers of all ranks. Throughout the investigative process, the investigator should maintain periodic contact with the citizen complainant.

The supervisor assigned to investigate a citizen complaint should try to complete the investigation, including the written report, within 20 to 30 days of the date of the complaint. If the investigation has not been completed by the 30th day, the officer assigned to the investigation should notify through channels the commanding officer of the citizen complaint unit of the reason for the delay and expected date of completion. This notification can be made on an interoffice memorandum.

While conducting investigations, personnel of the citizen complaint unit should have access to all agency records. If a commanding officer believes any part of his records is so sensitive that such access would be improper, he should immediately appeal the investigator's request to the chief of police or commissioner.

The officer conducting the citizen complaint investigation should report the results in writing to the commanding officer of the command conducting the investigation. The report should be accompanied by the original citizen complaint report and any other documents relevant to the investigation.

The disposition of a citizen complaint is the responsibility of the commanding officer of the command that conducts the investigation. The officer responsible for the disposition of the case should study the citizen complaint report, the investigator's report, and any other relevant documents or evidence in order to determine what actually happened. He should make every effort to reconstruct a complete account of the incident giving rise to the complaint. Based on the information at hand, he should reach a factual conclusion regarding the incident.

Upon finding impropriety on the part of a department member, a report of the alleged misconduct should be prepared, along with a draft of the charges, including the citation of the rule or regulation that was violated. The misconduct report and charge sheet are then referred through official channels to the chief of police, police commissioner, or to the person or command designated by him for the adjudication of the matter. In some large police agencies a disciplinary administrative unit exists for the orderly processing of all discipline cases, including trial boards, chief's hearings, appeals of terminal probationary evaluations, etc.

Separating the factfinding (investigation) unit and the adjudicative unit is desirable to provide greater credibility to the system. One person or unit should not be the judge, jury, and executioner, per se. Of course, when a particular command conducts an investigation of its own officers, this separation of function is less apparent. It does exist, however, to a certain extent in that the supervisor who conducts the investigation is responsible for reporting his findings to the commanding officer for approval and adjudication. The commanding officer should decide what action, if any, is appropriate in light of his factual conclusions and existing policy. If he decides that taking no action is appropriate, it should be so stated in the disposition report. If he concludes that action is appropriate and it is within his authority to take such action, he should immediately do so. An explanation of the action taken should be included in the disposition report. If he concludes that action beyond his realm of authority is appropriate, he should, before submitting the disposition report:

1) Recommend the action to the appropriate authority,
2) State in the disposition report that he has made such a recommendation, and
3) Attach a copy of the correspondence containing the recommendation to the disposition report.

Disciplinary options include reinstruction, retraining, written reprimand, formal disciplinary proceedings, and change or refinement in department rules, regulations, procedures, or training.

The disposition report should include the conclusions of facts, the conclusions reached by applying rules and policy to the facts, and a statement of action being taken or recommended. The commanding officer should also state any mitigating circumstances, such as unclear or poorly communicated department policy, inadequate training, or lack of effective supervision.

The commanding officer has the responsibility of insuring that the complainant is notified of the disposition of the case. He is also responsible for notifying each officer involved in the complaint of the disposition insofar as it affects or applies to that member.

Upon completion of the investigation and notifications, all copies of the citizen complaint report, the investigator's report, the original and one copy of the disposition report, and all other documents relevant to the complaint are forwarded to the citizen complaint unit for review, closure, logging, and filing. Prior to filing, notations should be made on officer contact cards, which are centralized at the citizen complaint unit.

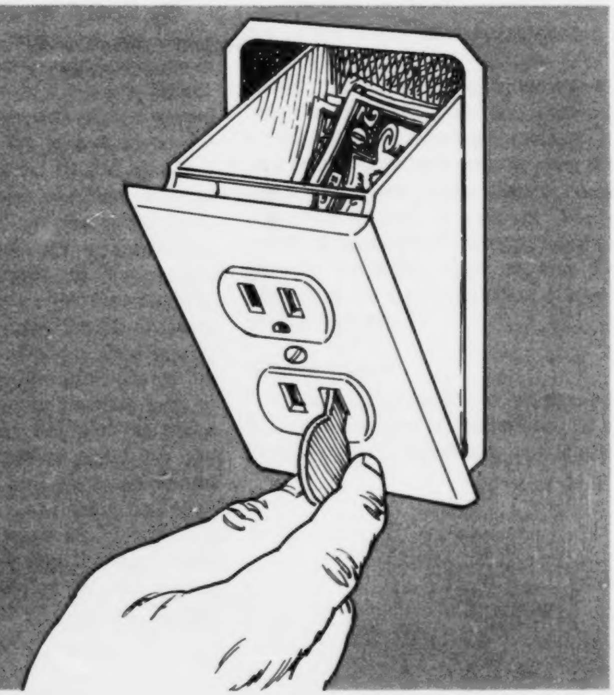
Total processing of a citizen complaint should be completed within 45 days, unless there are unusual circumstances. **FBI**

Footnote

[1] O. W. Wilson and Roy Clinton McLaren, *Police Administration,* 4th ed. (New York, N.Y. : McGraw-Hill, 1977), p. 212.

Outlet Storage Compartment

This device, advertised in magazines, looks like an electrical outlet that opens to allow for the storage of valuables. The "outlet" can be locked with a key and made to appear authentic when a lamp is plugged into it. However, law enforcement authorities should be aware that such a device could also be used to store illegal items, such as narcotics. **FBI**



Police-Community Relations

The Junior Security Patrol and the Military Installation

By SSGT. MARY F. BAKER
Security Police/Crime Prevention Section
Nellis Air Force Base, Nev.

JSP's monitor a traffic control point.

In April 1979, the Crime Prevention Section of the 57th Security Police Squadron implemented a junior security police (JSP) program on Nellis Air Force Base, Nev. This program, aimed at military dependent youths 6 to 14 years of age, was designed to make a youth's first contact with law enforcement officials a positive one.

In 1978, vandalism to military property in the base housing areas was a growing problem. Although the military installation is a cloistered law enforcement environment, its problems in the area of juvenile vandalism are not much different than those of a small

JSP's receive duty instructions.

urban population of 36,000. Military dependent youths come from a variety of social backgrounds, unlike a civilian community where the majority of its citizens are basically integral to the area. Social aberrations are brought into the military "on-base" community that stem from vast urban population centers, as well as semi-isolated rural areas across the United States, and in some cases, from the other side of the globe.

It seemed a logical approach to implement a public relations program aimed at negating preconceived information or ideas about people who wear a badge, establish an honest rapport with the base youths, and actively involve young people in constructive crime prevention.

Program Development

The initial effort by the Nellis police force was an intense program of advertisement over a 6-week period. This advertisement was geared toward motivating both the juveniles and the parents. In addition to the standard techniques—poster coverage in base public areas and articles in the base newspaper—permission was obtained from the principals of both base schools to not only brief classes but to conduct a "pep rally" for the students in the school auditorium. One county school located in the proximity of the off-base government housing area is 87-percent military. Although this had a short-lived, disruptive effect on the standard "3R's" fare, it was inordinately effective and delivered a payoff of enthusiasm that made a successful advertisement campaign. These techniques are facilitated by the overall cloistered nature of even the largest military installation.

On April 21, 1979, the initial meeting of the junior security police program was conducted. Of the 1,660 eligible base youths 486 turned in membership applications and received a briefing on the training curriculum. It was gratifying to note that at least 90 percent of these youths were accompanied by at least one parent. Attendance at subsequent training sessions grew to over 500, approximately 30 percent of the total population of eligible base youths.

Administration

Training classes are conducted twice monthly and are supervised by a training cadre of 10 off-duty instructors.

Members of the junior security patrol man an information center.

The author and a junior security patrol member arrive for duty.

The curriculum consists of standard paramilitary skills, such as guardmount procedures, inspection and drill, crime prevention slide presentation (developed locally by the Clark County Chamber of Commerce), police communication and crime reporting, traffic control, base entry control duties and procedures, and localized classes followed by a test on various subjects ranging from babysitting to home/self-protection.

On September 1, 1979, the first class of junior security police graduated. These 36 young people had completed all requirements and had displayed proficiency in all areas of the curriculum. On graduation day, they received a certificate from the chief, security police, a shirt with name tag, JSP and American flag patches, and became eligible to be scheduled to work along with security police. Due to the potential danger of some law enforcement conditions, JSP are never placed on active patrol. They observe the desk sergeant's duties and work traffic points and base entry control points, always supervised by an active duty police officer.

All funds for training equipment and uniforms for this program came from donations by local civil organizations or fundraising activities by the security police squadron and the youths themselves.

Evaluation

Since the implementation of the JSP program, crime analysis statistics relating to housing area vandalism have shown a significant decrease. We have achieved our stated purpose. On several occasions, such as the Fourth of July celebration when base traffic was nearly tripled, JSP's were successfully used at traffic control points, parking lots, and information centers, freeing the security police patrols and virtually eliminating the need to call in off-duty law enforcement personnel. With very little supervision and without incident, the JSP's proved themselves adequate in the task of routine police duties.

UNITED STATES AIR FORCE
NELLIS AIR FORCE BASE

Members of the junior security patrol.

There have also been many residual effects that reflect virtual 24-hour involvement by the youths in this program. On April 28, 1979, during an infrequent Las Vegas storm, a powerline was blown down near the housing area. This hazard was recognized by four youths in the JSP program. The incident was reported to the security police desk sergeant by one of the youths, while the others established traffic control to preclude traffic movement through the affected area.

On August 19, 1979, the security police desk sergeant received a report from a distraught parent—two male individuals had attempted to entice his 6-year-old daughter into their car in the off-base government housing area. The parent reported that two JSP youths had prevented this and escorted the child home.

These are a few small examples of how a youth's willingness to get involved and some productive training by dedicated police officials can combine to make productive police-community relationships. **FBI**

The Lust Murderer

By ROBERT R. HAZELWOOD
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Special Agents
Behavioral Science Unit
FBI Academy
Quantico, Va.

On August 29, 1975, the nude, mutilated body of a 25-year-old mother of two was found near Columbia, S.C. Both breasts had been removed, the reproductive system had been displaced, numerous cut and stab wounds were evidenced by the body, and there was indication of anthropophagy.[1]

This was the scene of a lust murder, one of the most heinous crimes committed by man. While not a common occurrence, it is one which frightens and arouses the public as does no other crime.

Of primary concern are those factors which differentiate the lust murder from the more common sadistic homicide, physical evidence present at the scene which may assist in determining the responsible individual(s), and possible personality characteristics of the murderer. It is not the authors' contention that the material presented is applicable to all such crimes or their perpetrators, but rather that the majority of the crimes and offenders involved will exhibit the characteristics set forth. The data presented here have not been quantified, but are based upon the authors' examination of case reports, interviews with investigative personnel, and a careful review of the literature. Minor variations of the terms used may occur, depending on the source of reference.

It is the authors' contention that the lust murder is unique and is distinguished from the sadistic homicide by the involvement of a mutilating attack or displacement of the breasts, rectum, or genitals. Further, while there are always exceptions, basically two types of individuals commit the lust murder. These individuals will be labeled as the Organized Nonsocial and the Disorganized Asocial personalities.

The Organized Nonsocial

The organized nonsocial (nonsocial) lust murderer exhibits complete indifference to the interests and welfare of society and displays an irresponsible and self-centered attitude. While disliking people in general, he does not avoid them. Instead, he is capable of displaying an amiable facade for as long as it takes to manipulate people toward his own personal goal. He is a methodical and cunning individual, as demonstrated in the perpetration of his crime. He is fully cognizant of the criminality of his act and its impact on society, and it is for this reason that he commits the crime. He generally lives some distance from the crime scene and will cruise, seeking a victim. Dr. Robert P. Brittain, author of "The Sadistic Murderer," has stated, "They (sadistic murderers) are excited by cruelty, whether in books or in films, in fact or fantasy."[2]

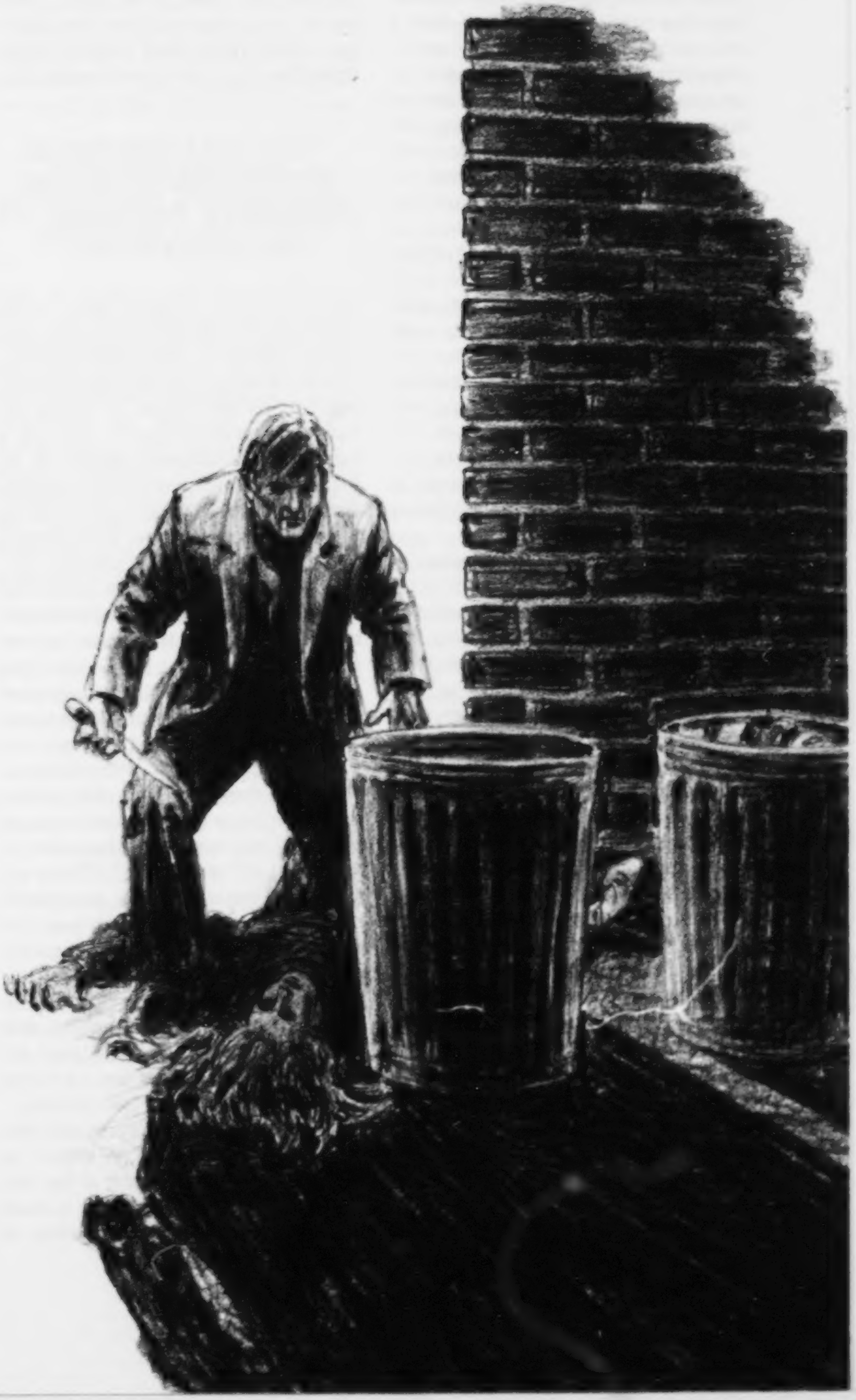
The Disorganized Asocial

The disorganized asocial (asocial) lust murderer exhibits primary characteristics of societal aversion. This individual prefers his own company to that of others and would be typified as a loner. He experiences difficulty in negotiating interpersonal relationships and consequently feels rejected and lonely. He lacks the cunning of the nonsocial type and commits the crime in a more frenzied and less methodical manner. The crime is likely to be committed in close proximity to his residence or place of employment, where he feels secure and more at ease.

The Crime

The lust murder is premeditated in the obsessive fantasies of the perpetrator. Yet, the killer may act on the "spur-of-the-moment" when the opportunity presents itself. That is to say, the murderer has precisely planned the crime in his fantasies, but has not consciously decided to act out those fantasies until the moment of the crime. Consequently, the victim is typically unknown to the killer, a fact borne out by the cases studied by the authors.

The location of the victim's body may be indicative of the type of murderer involved. Typically, the asocial type leaves the body at the scene of death, and while the location is not open to the casual observer, there has been no attempt to conceal the body. Conversely, the nonsocial type commits the crime in a secluded or isolated location and may later transport it to an area where it is likely to be found.



While there may be no conscious intent to be arrested, the nonsocial type wants the excitement derived from the publicity about the body's discovery and its impact on the victim's community.

The lust murder is committed in a brutally sadistic manner. While the victim may be either male or female, the crime is predominantly heterosexual and intraracial in nature. The victim's body exhibits gross mutilation and/or displacement of the breasts, rectum, or genitals and may have been subjected to excessive stabbing or slashing with a sharp instrument. The victim's death typically occurs shortly following abduction or attack, and the mutilation that takes place follows death. Dr. J. Paul de River notes in his book, *Crime and the Sexual Psychopath:*

> "The lust murderer, usually, after killing his victim, tortures, cuts, maims or slashes the victim in the regions on or about the genitalia, rectum, breast in the female, and about the neck, throat and buttocks, as usually these parts contain strong sexual significance to him, and serve as sexual stimulus." [3]

If, however, there is physical or medical evidence indicating the victim was subjected to torture or mutilation prior to death, this factor indicates that the perpetrator was the nonsocial rather than the asocial type.

Seldom will the lust murderer use a firearm to kill, for he experiences too little psychosexual gratification with such an impersonal weapon. Most frequently, death results from strangulation, blunt force, or the use of a pointed, sharp instrument. The asocial type is more prone to use a weapon of opportunity and may leave it at the scene, while the nonsocial type may carry the murder weapon with him and take it when departing the scene. Therefore, the murderer's choice of weapon and its proximity to the scene can be greatly significant to the investigation.

Dr. de River comments that the instrument itself may be symbolic to the murderer and he may place it in a position near the victim. This is a form of pride and exhibitionistic behavior and can be sexually gratifying to him. [4]

The investigator may find that the victim has been bitten on the breasts, buttocks, neck, abdomen, thighs, or genitals, as these body areas have sexual associations. Limb or breast amputation, or in some instances total dissection, may have taken place. Dissection of the victim's body, when committed by the nonsocial type, may be an attempt to hinder the identification of the victim. The asocial individual approaches his victim in much the same way as an inquisitive child with a new toy. He involves himself in an exploratory examination of the sexually significant parts of the body in an attempt to determine how they function and appear beneath the surface.

"The lust murder is premeditated in the obsessive fantasies of the perpetrator."

Occasionally, it will be noted that the murderer has smeared the victim's blood on himself, the victim, or the surface on which the body rests. This activity is more frequently associated with the asocial type and relates to the uncontrollable frenzy of the attack.

Penis penetration of the victim is not to be expected from the asocial individual, but is predominantly associated with the nonsocial type, even to the extent of "necrophilia." [5] These activities on the nonsocial's part reflect his desire to outrage society and call attention to his total disdain for societal acceptance. The asocial type more commonly inserts foreign objects into the body orifaces in a probing and curiosity-motivated, yet brutal, manner. Evidence of ejaculation may be found on or near the victim or her clothing.

Frequently, the murderer will take a "souvenir," normally an object or article of clothing belonging to the victim, but occasionally it may be a more personal reminder of the encounter—a finger, a lock of hair, or a part of the body with sexual association. The souvenir is taken to enable the murderer to relive the scene in later fantasies. The killer here is acting out his fantasy, and complete possession of the victim is part of that fantasy. As previously mentioned, the perpetrator may commit an anthropophagic act and such an act is indicative of asocial involvement.

Finally, the scene itself will exhibit much less physical evidence when the murderer is the nonsocial type. As stated, the individual categorized as the nonsocial type is very cunning and more methodical than the asocial type, who commits a more frenzied assault. It is interesting to note, however, that both types may be compelled to return to the scene, albeit for different reasons. While the asocial type may return to engage in further mutilation or to relive the experience, the nonsocial type returns to determine if the body has been discovered and to check on the progress of the investigation. Instances have occurred when the nonsocial type changed the body's location to insure its discovery.

Of interest is the almost obsessive desire of the nonsocial type to assess the police investigation, even to the extent of frequenting police "hangouts" to eavesdrop on discussions of unsolved crimes, or in some manner, inserting himself into the investigation. In one case, the murderer returned to the scene after it had been examined by police laboratory technicians and deposited articles of clothing worn by the victim on the day she died. In both of two other cases, the killer visited the cemetery site of the victim and left articles belonging to the victim on her grave. It is as though he were involved in a "game" with the authorities. Such actions appear to further his "will to power" [6] or desire to control.

Portrait of the Lust Murderer

What set of circumstances create the individual who becomes the lust murderer? The authors do not possess the expertise to explain the multiple and complex casual factors associated with the psychological development of the individual who commits such a heinous crime. But, it is generally accepted that the foundation of the personality is formed within the first few years of life. While extreme stress, frequent narcotic use, or alcohol abuse can cause personality disorganization in later life, it is the early years that are critical to the personality structure and development.

Seldom does the lust murderer come from an environment of love and understanding. It is more likely that he was an abused or neglected child who experienced a great deal of conflict in his early life and was unable to develop and use adequate coping devices (i.e. defense mechanisms). Had he been able to do so, he would have withstood the stresses placed on him and developed normally in early childhood. It must be emphasized that many individuals are raised in environments not conducive to healthy psychological development, yet they become productive citizens. These stresses, frustrations, and subsequent anxieties, along with the inability to cope with them, may lead the individual to withdraw from the society which he perceives as hostile and threatening.

Through this internalization process, he becomes secluded and isolated from others and may eventually select suicide as an alternative to a life of loneliness and frustration. The authors have designated this reaction to life as disorganized asocial. This type possesses a poor self-image and secretly rejects the society which he feels rejects him. Family and associates would describe him a nice, quiet person who keeps to himself, but who never quite realized his potential. During adolescence, he may have engaged in voyeuristic activities or the theft of feminine clothing. Such activities serve as a substitute for his inability to approach women sexually in a mature and confident manner.

The individual designated by the authors as the organized nonsocial type harbors similar feelings of hostility, but elects not to withdraw and internalize his hostility. Rather, he overtly expresses it through aggressive and seemingly senseless acts against society. Typically, he begins to demonstrate his hostility as he passes through puberty and into adolescence. He would be described as a troublemaker and a manipulator of people, concerned only for himself. He experiences difficulties with family, friends, and "authority figures" through antisocial acts which may include homicide. Thomas Strentz and Conrad Hassel, in the June 1978 issue of *Journal of Police Science and Administration,* wrote of a youth who had first murdered at the age of 15 and was committed to a mental institution. After his release, he murdered and dismembered eight women.[7] It is the nonsocial's aim to get even with society and inflict pain and punishment upon others.

"The lust murder is committed in a brutally sadistic manner."

The Role of Fantasy

As noted, the lust murder is premeditated in obsessive fantasies experienced by both the asocial and nonsocial murderers. Fantasy provides them an avenue of escape from a world of hate and rejection. Dr. James J. Reinhardt in his book, *Sex Perversions and Sex Crimes,* has written:

> "A study of these cases almost invariably reveals a long struggle against what Reik calls the 'forward thrust.' By fantasy the murderer attempts to wall himself in against the fatal act, while at the same time gratifying the compulsive psychic demands in the development and use of *fantasy.* These sadistic [fantasies] seem always to have preceded the brutal act of *lust* murder. These *fantasies* take all sorts of grotesque and cruel forms. The pervert, on this level of degeneracy, may resort to pornographic pictures, grotesque and cruel literary episodes, out of which he weaves fantasies. On these, his imagination dwells until he loses all contact with reality, only to find himself suddenly impelled to carry his fantasies into the world of actuality. This is done, apparently, by drawing human objects into the *fantasy.*"[8]

James Russell Odom, tried and convicted with James Clayton Lawson for the brutal lust murder described at the beginning of this article, stated that while he and Lawson were at a mental institution, they would express their fantasies about women:

> "(Odom) raping them and Lawson mutilating them . . . (we had fantasized so much that at times I didn't know what was real."[9]

If he acts out the fantasy (commits the crime), his goal will be to destroy the victim and thereby become the sole possessor. James Lawson (mentioned above) is quoted as saying:

> "Then I cut her throat so she would not scream. . . . at this time I wanted to cut her body so she would not look like a person and destroy her so she would not exist. I began to cut on her body. I remember cutting her breasts off. After this, all I remember is that I kept cutting on her body."[10]

The victim may represent something he desires sexually, but is unable to approach. Lawson speaks again, "I did not rape the girl. I only wanted to destroy her."[11]

Rarely encountered is the asocial type who is capable of normal heterosexual relationships. He may desire such relationships, but he also fears them. Dr. Reinhardt, on an interview with a famous lust murderer, wrote:

> ". . . he at first denied ever attempting any sex play with girls. Two days later with one of his rare shows of emotion he said, looking much ashamed, that twice, later correcting himself to eight times, he had touched girls 'on the breasts' and then pressed 'on the leg.' Always having done this, he would immediately burst into tears and 'be upset and unable to sleep'." [12]

The Psychological Profile

A psychological profile is an educated attempt to provide investigative agencies with specific information as to the type of individual who committed a certain crime. It must be clearly stated at the outset that what can be done in this area is limited, and prescribed investigative procedures should not be suspended, altered, or replaced by receipt of a profile. Rather, the material provided should be considered and employed as another investigative tool. The process is an art and not a science, and while it may be applicable to many types of investigations, its use is restricted primarily to crimes of violence or potential violence.

When prepared by the FBI, the profile may include the perpetrator's age, race, sex, socioeconomic and marital status, educational level, arrest history, location of residence in relation to the scene, and certain personality traits.

A profile is based on characteristic patterns or factors of uniqueness that distinguish certain individuals from the general population. In the case of lust murder, clues to those factors of uniqueness are found on the victim's body and at the scene and would include the amount and location of mutilation involved, type of weapon used, cause of death, and the position of the body. The profiler is searching for clues which indicate the probable personality configuration of the responsible individual.

"The location of the victim's body may be indicative of the type of murderer involved."

In preparing the profile, it is preferable to have access to the scene prior to its disturbance. In most instances, this is impossible. In lieu of being at the scene, the profiler must be provided investigative reports, autopsy protocols, detailed photographs of the body, scene, and surrounding area, as well as a map depicting the victim's last known location in relation to its present location and any known information pertaining to the victim and her activities.

There are violent crimes in which there is an absence of uniqueness; therefore, it is not possible to provide a profile. However, this is not likely to occur in the case of a lust murder.

Summary

While not a common occurrence, the lust murder frightens and arouses the public as does no other crime. The lust murder involves the death and subsequent mutilating attack of the breasts, rectum, and genital areas of the victim. The crime is typically heterosexual and intraracial in nature and is committed by one of two types of individuals: The disorganized asocial personality, or the organized nonsocial personality.

The organized nonsocial type feels rejection by and hatred for the society in which he lives. His hostile feelings are manifested overtly, and the lust murder is the final expression of the hatred he feels. The disorganized asocial type also feels rejection and hatred for his world, but withdraws and internalizes his feelings, living within a world of fantasy until he acts out that fantasy with his victim.

While commonalities exist in the commission of the lust murder, there are certain factors which may indicate the personality type involved. These factors include the location of the body, evidence of torture or mutilation having occurred prior to death, smearing of the victim's blood, evidence of penis penetration or anthropophagy, and the availability of physical evidence at the scene.

The crime is premeditated in the obsessive fantasies experienced by both the asocial and the nonsocial types, yet it is a crime of opportunity, one in which the victim is not usually known to the murderer.

The use of psychological profiling in such crimes may be of assistance in determining the personality type involved. It is a search for clues indicating the probable personality configuration of the responsible individual(s). It is a useful tool, but must not alter, suspend, or replace prescribed investigative procedures. **FBI**

Footnotes

[1] Anthropophagy: Consuming the victim's flesh or blood.

[2] Robert P. Brittain, "The Sadistic Murderer," *Medical Science and the Law*, vol. IV (1970), p. 202.

[3] J. Paul de River, *Crime and the Sexual Psychopath* (Springfield, Ill.: Charles C. Thomas, 1950), p. 40.

[4] J. Paul de River, *The Sexual Criminal* (Springfield, Ill.: Charles C. Thomas, 1950), p. 233.

[5] Necrophilia: A desire for relations with the dead.

[6] Calvin S. Hall and Lindsey Gardner, *Theories of Personality*, 2d ed. (New York: John Wiley and Sons, Inc., 1970).

[7] Thomas Strentz and Conrad V. Hassel, "The Sociopath—A Criminal Enigma," *Journal of Police Science and Administration*, (June 1978).

[8] James J. Reinhardt, *Sex Perversions and Sex Crimes* (Springfield, Ill.: Charles C. Thomas, 1957), pp. 208–209.

[9] Statement of Odom as reported by *The Record* (newspaper) April 7, 1976, 1–A.

[10] Statement made to South Carolina law enforcement authorities by James Clayton Lawson on September 3, 1975.

[11] *Ibid.*

[12] Reinhardt, pp. 221–222.

The Administration of the Small Police Department

In the United States today, the majority of communities are relatively small in size and population. Most of these communities have their own city, town, or village police department of comparable size. There are many fine publications addressing the management and administration of a police department, but none that exclusively address these matters for the small police agency.

Some questions that must be answered when examining the size of the department deal with the actual operations—job performance, job support, and job administration or management.

This article illustrates one method used by a small police department in the support and administration functions of the agency.

By SGT. RAYMOND ARTHURS

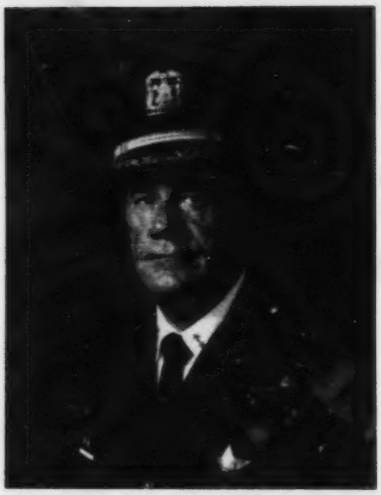
Police Department
Palos Heights, Ill.

The City of Palos Heights is located in south suburban Cook County, Ill., approximately 5 miles southwest of the City of Chicago. The population of the city as of the 1970 census was 9,900 people. Today, it is estimated that there are 13,000 residents. The community is an upper middle class bedroom community with a number of small business areas and no industry. The city covers an area in excess of 7 square miles.

A mayor-alderman form of government was established in the community at its inception in 1959. These officials are elected and seek their offices as independents. The mayor and city clerk are elected from citywide voting and two aldermen are elected from each ward with their terms of office staggered.

The Palos Heights Police Department is composed of 22 full-time sworn officers, 3 part-time sworn officers, and 13 nonsworn personnel. The organization of the department consists of the chief of police, 1 captain, 5 sergeants, and 18 patrolmen. In addition, there are five civilian dispatchers/typists, three typists, and five crossing guards. (See fig. 1.)

Sergeant Arthurs



Nick A. DeLeo
Chief of Police

The agency can be divided into three areas—operations, support, and administration. All sworn personnel have line responsibilities with the exception of the chief and captain.

The administration of the department rests with the chief of police who has overall authority and responsibility for its operation and the accomplishment of goals. Assisting the chief is the captain of police, whose duties include budget preparation, policy formulation and implementation, and discipline. In addition, he is responsible for the supervision of sergeants, all patrol scheduling, coordinating outside training for the department, and commanding the Investigations Division.

". . . each supervisor has two or three support functions which are his responsibility. . . ."

The patrol function of the department consists of three 8-hour shifts, with a sergeant acting as watch commander. Depending on the watch, days off, illness, and special assignments, each shift will have from two to six patrolmen on duty. In addition, the schedule is made to assure there is a relief supervisor on duty whenever the watch commander is on his regular day off. Assisting the patrol function is a traffic/court sergeant who handles the Records Division and serves as relief for sergeants.

The Investigations Division consists of two investigators under the direct control of the captain. Their responsibilities include followup of all crimes, handling of juveniles, both criminal and status offenders, narcotic law violations, and any undercover or stakeout assignments.

Yet, who handles the various support functions of the department? Who maintains the volumes of records needed to support budget proposals, determine equipment needs, and record the activities of the police agency? In the small police department, this is usually handled by line supervisors in addition to their normal duties of supervising the shift as watch commander. Many large police departments have a number of divisions to handle these problems, which on a much smaller scale are handled by the smaller agency without additional manpower.

In the Palos Heights Police Department, the assignment of these support functions is handled by the captain. They are reviewed annually and in many cases rotated among the various sergeants to familiarize each of them with the tasks and procedures. Figure 2 provides a review of the manner in which these functions are distributed.

Communications/Records

The supervising sergeant for this area is responsible for scheduling and supervising communication dispatchers/typists and taking any necessary disciplinary actions. It is his responsibility to handle all complaints concerning the operation of this unit. He makes recommendations for the hiring, replacing, or releasing of personnel, schedules equipment maintenance, and proposes procedural changes. Reports go through the chain of command until approved and are eventually filed in the records office.

Automotive

This support function concerns the care and recordkeeping aspects of departmental vehicles. The supervising sergeant is responsible for maintaining records on each vehicle, as well as scheduling automotive work to be done either through the dealer under the warranty or by the city mechanic. In addition, he keeps records on fuel consumption and has the responsibility for ordering and stocking automotive and gas supplies. He advises the captain of

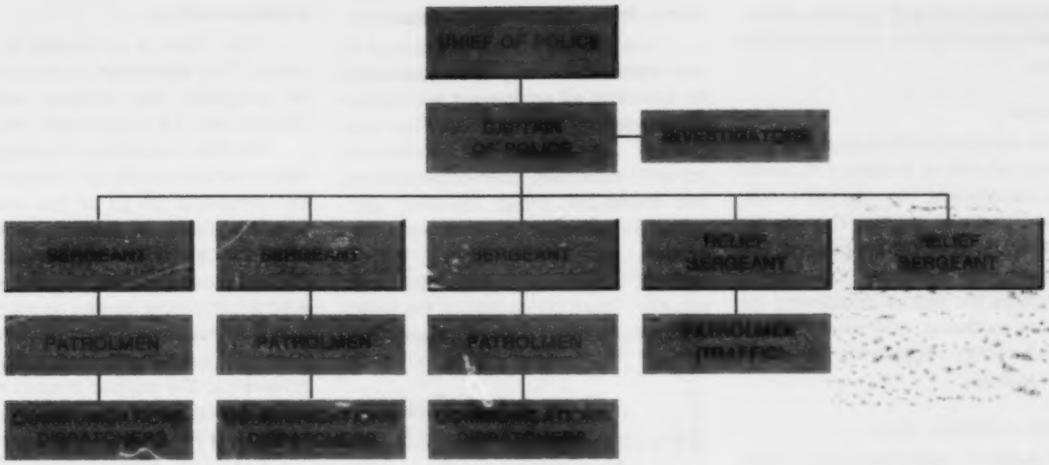

CHIEF OF POLICE
CAPTAIN OF POLICE
INVESTIGATORS
SERGEANT
SERGEANT
SERGEANT
RELIEF SERGEANT
RELIEF SERGEANT
PATROLMEN
PATROLMEN
PATROLMEN
PATROLMEN (TRAFFIC)
COMMUNICATIONS DISPATCHERS
COMMUNICATIONS DISPATCHERS
COMMUNICATIONS DISPATCHERS

Figure 1—PALOS HEIGHTS POLICE DEPT. ORGANIZATION CHART

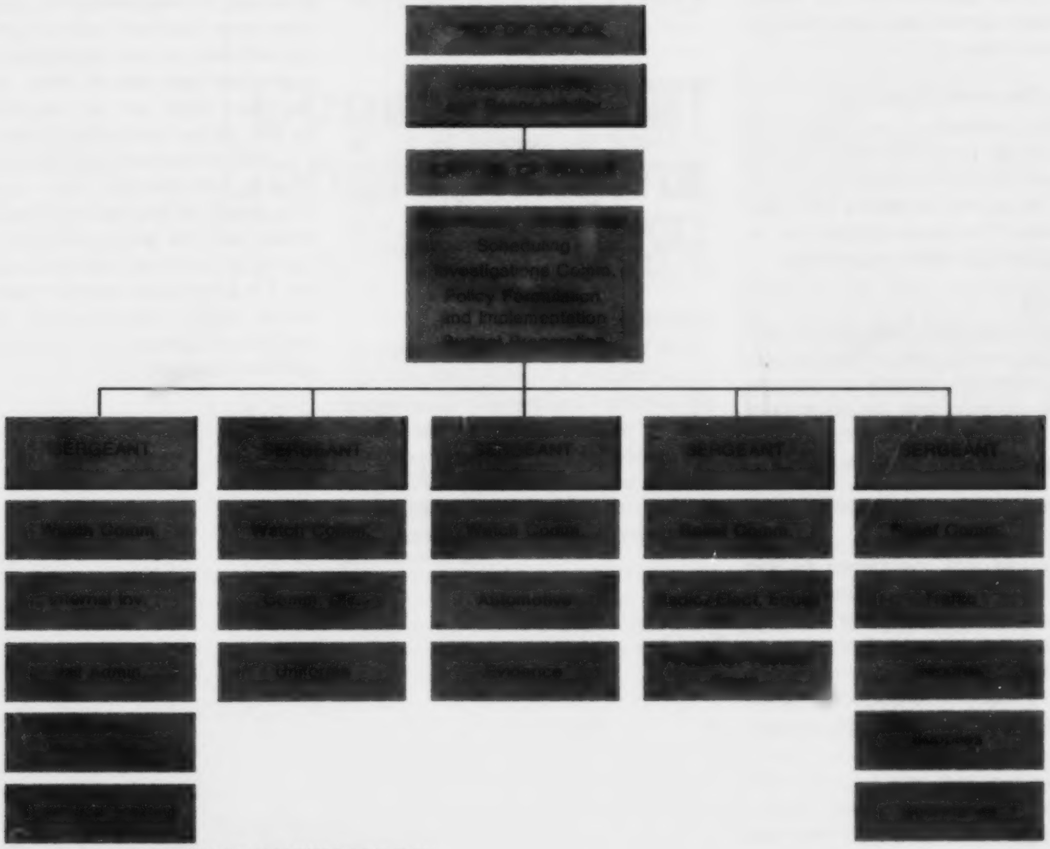

Scheduling
Investigations Coord.
Policy Formulation
and Implementation
SERGEANT
SERGEANT
SERGEANT
SERGEANT
SERGEANT
Watch Comm.
Watch Comm.
Watch Comm.
Relief Comm.
Relief Comm.
Internal Inv.
Automotive
Radio/Elect. Equip.
Traffic
Jail Admin.
Uniforms
Evidence

Figure 2—DISTRIBUTION OF ADMINISTRATION AND SUPPORT FUNCTIONS

needed equipment and provides advertisement specifications for bids on new vehicles.

Evidence

The sergeant with responsibility in this area records all evidence received by the department. He maintains custody and chain of custody records for each item and controls the storage and safekeeping of evidence. In addition, he prepares the proper documents for disposing evidence, and when necessary, submitting evidence to the crime lab for analysis.

City Jail Administration

Inspection, recordkeeping, maintenance, and overall physical conditions of the city jail are the assigned duties of the sergeant in charge. He records inmate population for city, State, and Federal crime statistics. In addition, he approves bills for meals, purchases supplies, and schedules any necessary repairs.

Radio/Electronic Equipment

The sergeant is responsible for the installation and maintenance of all radio and electronic equipment. In addition, he records all repairs and costs and makes recommendations for replacing and purchasing equipment.

Uniforms

This supervisor deals directly with the department's retail uniform supplier. He maintains records of requests for new uniforms and the ordering of same. Additionally, he projects budget figures for the next fiscal period.

Firearms/Tactical Equipment

All department-owned weapons are secured and maintained by this supervisor. In addition, recommendations for the purchase of new weapons and equipment are submitted by him to the captain. He also conducts a monthly department qualification shoot which is mandatory for all members.

Crime Prevention/Public Relations

This unit supervisor is assisted by one patrolman. They are responsible for selecting all equipment and materials needed for this function. They also present programs to community schools, churches, civic organizations, and any other group, covering such topics as narcotics, general crime prevention, elementary school "Officer Friendly" programs, safety, and home security. Tours conducted of the police facility are part of their responsibilities.

". . . it is a workable system in which all of the support, administrative, and investigative operations of the police department are met."

Special Investigations

The sergeant in this unit conducts all internal investigations for the department and submits subsequent reports to the captain. These investigations include citizen complaints and background investigations for new applicants.

Inservice Training

In conjunction with the captain of police, inservice training programs using outside lecturers and audio-visual aids, as well as department members, are scheduled. In addition, practical "hands on" programs are developed to keep members informed of departmental practices and procedures.

Implementation

The chain of command is maintained. The patrolman converses with his sergeant, the sergeant with the captain, and the captain with the chief.

Monthly supervisor meetings are held in which reports are presented by the sergeants on all of the aforementioned subjects. In addition, problems, suggestions, and recommendations are discussed in relation to the various support functions, as well as matters of patrol and administration. Written reports are submitted monthly by each sergeant to the captain in each area of responsibility, with a comprehensive report submitted annually.

Conclusion

It must be noted that each of these support functions is basically the same as those found in the large department. In the larger department, however, the supervisor in charge of each area basically has no other responsibilities. In this department, each supervisor has two or three support functions which are his responsibility, as well as the supervision of his shift.

The problems of this type of organization can become very complex. The priority of the task must be determined and the proper actions taken. To say it is a model may not be proper, but it is a workable system in which all of the support, administrative, and investigative operations of the police department are met. **FBI**

Interview of Public Employees Regarding Criminal Misconduct Allegations

Constitutional Considerations

(Conclusion)

Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

By JOSEPH R. DAVIS
Special Agent
Legal Counsel Division
Federal Bureau of Investigation
Washington, D.C.

Part I of this article discussed some of the major priniciples that courts have developed in regard to a public employee's obligation to answer an employer's work-related questions when there is a substantial risk that the employee may be subject to criminal prosecution for his actions. For purposes of continuity, these are briefly summarized:

1) As a matter of constitutional law, any statement given by a public employee based upon a threat of dismissal from his job if he fails to respond will be inadmissible against the employee in a subsequent criminal proceeding.

2) An employee who is being questioned in any proceeding about a matter that could result in a criminal prosecution of him may not be discharged solely for invoking his fifth amendment privilege and refusing to answer or for refusing to sign a waiver of immunity.

". . . no *Miranda* warning or any warning of fifth amendment rights is suggested [in disciplinary interviews]."

3) A public employee does have an obligation to answer his employer's work-related inquiries. Therefore, if an employee is assured that his answers and information obtained as a result of those answers cannot be used against him in a criminal proceeding and that he may be disciplined or discharged for failure to respond, then he may properly be disciplined or discharged for any refusal to answer such questions.

The conclusion of the article will suggest procedures for interviewing employees which will satisfy these principles.

It should be recognized the Government is often "wearing two hats" in pursuing inquiries into allegations of criminal misconduct on the part of public employees. The Government *as an investigator and prosecutor* is responsible for uncovering and prosecuting individuals, Government employees included, who violate criminal statutes. Additionally, the Government *as an employer* has a legitimate interest in obtaining all the facts regarding misconduct of its employees, in order to take appropriate disciplinary action against offending employees. This dual role is particularly apparent in the case of a law enforcement agency.

The foregoing often causes confusion in the minds of both the investigator, who is acting on behalf of the agency in pursuing the inquiry, and the employee, who is called upon to respond to questions regarding his official duties.

Often, it is impossible for the interviewer to pursue both roles simultaneously, at least to the fullest extent. For example, as a criminal investigator the interviewer must be concerned that no improper coercion is exerted on the employee, because this could result in a finding that the statement is "involuntary" and hence inadmissible in a criminal proceeding. He may also be concerned with whether full *Miranda* warnings or some modified warning should be given to the employee.[25] On the other hand, as a representative of the employer, the interviewer may wish to compel the employee to answer fully all questions relating to his duties and enforce this by a threat of disciplinary action, including dismissal, if the employee fails to account for his duties.

Because these interests conflict, any attempt to pursue them both simultaneously is likely to result in a situation that ill-serves the interests of both the employer and the employee.

An illustration of this conflict is provided in *Peden* v. *United States*,[26] a recent U.S. Court of Claims case. Peden was a special agent with the Intelligence Division of the Internal Revenue Service (IRS) and was assigned to investigate criminal tax frauds. He was suspected of arranging payment of bribes to IRS personnel by a taxpayer who was under investigation. Agents of the Inspection Service of the Treasury Department attempted to interview Peden regarding his investigation of the taxpayer and certain other tax cases assigned to him. The inspectors gave Peden the usual *Miranda* warnings, after which he refused to answer any of their questions. The inspectors then informed him of a portion of the Rules of Conduct for IRS Employees, which required him to "respond to questions on matters of official interest." They again emphasized that they wished to question him concerning the tax liability of individuals he was assigned to investigate as part of his official duties. Peden persisted in his refusal to answer any questions.

A few days after the abortive interview, Peden was arrested on criminal charges relating to the alleged bribery. He was later terminated based, in part, on the fact that he had refused to answer questions regarding his official duties in the course of the interview mentioned above. The court of claims commented on the validity of the "refusal to answer" charges by stating:

> "The statements of the agents to Peden were a masterpiece of confusion. They told him per the *Miranda* formula that he could have counsel and did not have to talk. Thus, as a criminal investigator himself, he could have had no doubt he was suspected of having committed a crime. Then they told him, per the Treasury regulation, that he did have to talk. No explanation or resolution of this inconsistency was offered. . . . (A) regulation of this Treasury type can be used to coerce information from a criminal suspect only if he is given adequate assurance that his responses will not be used against him in any criminal proceeding. No such assurance was given here."[27]

The court held that the firing could not be supported based on the agent's failure to answer.

To avoid unnecessary problems, before undertaking the interview, the employer should determine whether the goal of the interview is to obtain a statement usable in a criminal proceeding or rather to compel the employee to account fully for his work-related actions.

Interviews for Criminal Investigative Purposes

If the employer believes criminal prosecution is a possibility and wishes to insure any statement obtained is usable against the employee in a criminal proceeding, or at least wishes to preserve the option of its use, then the following procedure is suggested:

1) The employee should be given some warning of his fifth amendment rights, at least an assurance that he may refuse to answer any questions that may be incriminating and that any answers the employee gives may be used against him in a subsequent criminal proceeding.

2) The employee should be advised that if he asserts his constitutional right to refuse to answer incriminating questions, no adverse administrative action will be taken against him based upon his refusal to answer.

If the above procedure is followed, any statement given should be "voluntary" and usable in any subsequent criminal proceeding. Of course, the statement also could be used for disciplinary purposes.

It can be argued that no warning of constitutional rights is required, or at least not a full *Miranda* warning. The employee in most instances is not in custody or significantly deprived of his freedom of action for purposes of the *Miranda* requirement, and he has not been arrested or charged with a crime.[28] However, there is coercion inherent in an interview of an employee regarding his duties by a representative of his employer, often a superior officer. To overcome this inherent compulsion, some fifth amendment warning is recommended.

The same holds true for the suggested assurance to the employee that he will not be punished for his failure to respond. It simply dispels any doubts that the employee may have as to whether he must answer or face disciplinary action for failure to do so. It also substantially reduces the possibility that an employee may later convince a court that he was "compelled" to make an incriminating statement because of an implied threat of disciplinary action. It would appear this is particularly advisable when there is a statute, regulation, etc., that on its face appears to require the employee to respond to all questions regarding official duties.

If full *Miranda* warnings are given, they will include the right to have counsel present at the interview and even the right to appointed counsel. As a matter of constitutional law, it does not appear that a person who is not in custody or significantly deprived of his freedom of action or who has not previously been charged with a crime has a sixth amendment right to counsel at an interview.[29] Therefore, no warning of right to counsel is required by the Constitution. Of course, since the employee being interviewed may refuse to answer at all, he may also refuse to answer until he consults with an attorney. If the employee asks to consult with an attorney before answering or to have an attorney present during the interview, then it becomes a policy question as to whether the employer wishes to conduct the interview under those circumstances.

On the other hand, if the employer determines that the goal of the interview is simply to require a full statement from the employee as to matters directly relating to the performance of his duties, for the sole purpose of determining if disciplinary action is warranted, a different approach is appropriate.

Interviews for Administrative Purposes Only

If the employer wishes to compel the employee to answer fully questions directly related to the employee's official duties and is willing to forego any use of his answers or their fruits in a criminal prosecution, then the following procedure is suggested.

The employee should be advised that:

1) The purpose of the interview is to solicit responses that will assist in determining whether disciplinary action is warranted, and the answers furnished may be used in disciplinary proceedings that could result in administrative action against the employee, including dismissal.[30]

2) All questions relating to the performance of official duties must be answered fully and truthfully, and disciplinary action, including dismissal, may be undertaken if the employee refuses to answer fully and truthfully.

". . . several court decisions have directly held that no sixth amendment right to counsel applies in purely disciplinary proceedings."

3) No answers given nor any information gained by reason of such statements may, as a matter of constitutional law, be admissible against the employee in any criminal proceeding.

If the above warning and assurance is given, the employee is required to answer fully questions relating to performance of his job.[31] If the employee refuses to respond to such questions, there is no constitutional bar to disciplinary action, including dismissal from employment, based upon such refusal.[32]

Note that no *Miranda* warning or any warning of fifth amendment rights is suggested. Giving fifth amendment warnings, particularly the full *Miranda* warnings, in such an interview is not only unnecessary, it is inconsistent with the required assurance that the employee's statements *cannot* be used against him in a criminal proceeding.[33] It causes confusion in the mind of the employee that may result in an unjustified refusal to answer. Alternatively, a court could also find that this contradictory advice so confused the employee as to the consequences of his refusal to answer that disciplinary action could not properly be taken for any refusal.[34]

There is no right to counsel under the sixth amendment in such administrative interviews. The sixth amendment guarantees a right to assistance of counsel "in all *criminal prosecutions*."[35] (emphasis added) More specifically, several court decisions have directly held that no sixth amendment right to counsel applies in purely disciplinary proceedings.[36]

Apart from the 6th amendment right to counsel guarantee, the 5th and 14th amendments provide that the Government may not deprive a citizen of "life, liberty, or property, without due process of law." [37] This has been interpreted to require certain minimal procedural safeguards prior to deprivation of any substantial "property" right. Public employees, particularly competitive Civil Service employees, have been held to have a property interest in continued employment sufficient to require procedural due process in termination proceedings.[38] Assuming for purpose of this discussion that such a property right does exist, the question then arises as to whether a right to consult with counsel or to have counsel present in such administrative interviews might be inferred.

The Supreme Court and lower courts have recognized that fewer procedural safeguards are required to satisfy due process in the "investigatory" (factfinding) stages of a proceeding than are required in the "adjudicatory" (decisionmaking) stages of the proceeding.[39]

The few cases which have directly considered the question have refused to recognize any right to counsel in a purely disciplinary interview or proceeding, particularly if the interrogation takes place in the investigatory stage of the proceeding.[40] These cases appear to be correct. Having an attorney present during such an administrative interview would seem to offer minimal benefit to the employee. The employee is required to answer fully all questions relating to the performance of his duties. No problem of self-incrimination arises that would require the advice of counsel, as the Government is prohibited from using such compelled statements or the fruits thereof in any subsequent criminal proceeding. The obvious burden on the agency of allowing consultation with counsel or presence of counsel during the course of such interviews will be considered by a court and balanced against the benefit to the employee in having his attorney present.[41] Generally, if the interview is factfinding in nature and conducted solely for disciplinary purposes, the court is likely to resolve the question in favor of no constitutional right to counsel under either the 6th or 5th and 14th amendments.

Assuming, as indicated above, there is no constitutional right to counsel in such administrative interviews—it becomes a question of policy as to whether an agency wishes to allow consultation with or presence of counsel in such proceedings. If a public employer decides to allow the presence of counsel in such interviews,[42] there seems to be no constitutional reason why certain conditions could not be imposed on the attorney's participation.

Conclusion

From the foregoing it should be apparent that interviews of public employees regarding allegations of criminal misconduct require careful planning. It is essential that the employer consider beforehand the purpose of the interview and then tailor the approach to comply with the constitutional principles discussed above.

Although some basic requirements as to such inteviews are well-established by Supreme Court and other appellate court decisions, there are many issues which have not been considered. There is some diversity in the resolution of these problems.

Because of the complexity of the legal issues and the variety of State and local statutes and regulations, agencies are strongly encouraged to consult with legal counsel in formulating guidelines for such employee interviews. **FBI**

Footnotes

[25] In *Miranda* v. *Arizona*, 384 U.S. 436 (1966), the U.S. Supreme Court held that when an individual is in police custody or otherwise deprived of his freedom of action in any significant way, and police desire to question him, he must be first advised of certain rights set forth in the *Miranda* opinion and must make an intelligent waiver of those rights.

[26] 512 F. 2d 1099 (Ct. Cl. 1975).

[27] *Id.* at 1101–02.

[28] *Miranda* v. *Arizona, supra* note 25. Subsequent Supreme Court decisions have made it clear that it is the combination of *custody* and *interrogation* that triggers the requirement for *Miranda* warnings. If an individual is not in custody or significantly deprived of his freedom of action, police may question him without the required warnings. *Beckwith* v. *United States*, 425 U.S. 341 (1976); *Oregon* v. *Mathiason*, 429 U.S. 492 (1977). See *People* v. *Wenstrom*, 356 N.E. 2d 1165 (Ill. Ct. App. 1976) (officer's confession without full *Miranda* warnings was admissible, as there was no custody.)

In *Massiah* v. *United States*, 377 U.S. 201 (1964), the Court held that incriminating statements, deliberately elicited by Government agents after indictment and in the absence of counsel, are inadmissible. Therefore, if an employee has been formally charged with a crime a full *Miranda* warning should be given and a waiver obtained before proceeding with the interview.

Many police agencies have policies that go beyond those strictly required by *Miranda* and subsequent decisions and require warnings be given whenever any individual who is a "suspect" or "subject" or the "focus" of an investigation is interviewed, regardless of whether there is custody. Agencies having such policies may desire to apply the same standards to employee interviews where a statement usable in a criminal proceeding is being sought.

[29] See citation of authority and discussion, *supra* notes 25 and 28.

[30] This statement serves two purposes. First, it helps assure the employee that the interview is solely for administrative, as opposed to criminal investigative, as opposed to criminal investigative purposes, and second, by specifically informing the employee that his answers can be used against him for disciplinary purposes, it removes any possibility of confusion over the scope of the "immunity" as to the use of his response.

[31] As Judge Friendly of the U.S Court of Appeals for the Second Circuit explained, ". . . public employees do not have a absolute constitutional right to refuse to account for their official actions and still keep their jobs; their right, conferred by the Fifth Amendment itself, as construed in *Garrity*, is simply that neither what they say under such compulsion nor its fruits can be used against them in a subsequent prosecution." *Uniformed Sanitation Men Association* v. *Commissioner*, 426 F. 2d 619 (2d Cir. 1970), *cert. denied*, 406 U.S. 961 (1972).

[32] *Uniformed Sanitation Men Association* v. *Commissioner, supra* note 31; *Hank* v. *Codd*, 424 F. Supp. 1086 (S.D.N.Y. 1975); *McLean* v. *Rochford*, 404 F. Supp. 191 (N.D. Ill. 1975); *Seattle Police Officer's Guild* v. *City of Seattle*, 494 P. 2d 485 (Wash. 1972); *Confederation of Police* v. *Conlisk*, 489 F. 2d 891 (7th Cir. 1973) (dictum), *cert. denied*, 416 U.S. 956 (1974).

[33] *Peden* v. *United States, supra* note 26, *Kalkines* v. *United States*, 473 F. 2d 1391 (Ct. Cl. 1973).

[34] *Peden* v. *United States, supra* note 26, *Kalkines* v. *United States, supra* note 33. If a public employer is required by statute, regulation, collective bargaining agreement, or other provision to give a fifth amendment warning of rights, the person conducting the interview should explain the apparent inconsistency to insure the employee understands that answers compelled upon threat of job termination *cannot* be used against the employee in a criminal proceeding. Note that such a procedure was approved in *Uniformed Sanitation Men Association* v. *Commissioner, supra* note 31, although the fifth amendment warning given in that case was limited to the right to remain silent and was closely followed by a statement that the employee would be subject to disciplinary action for refusing to answer and that neither the answers nor their fruits could be used against the employee in a criminal proceeding.

[35] U.S. Const. amend. VI. The sixth amendment states, in part, "In all criminal prosecutions the accused shall enjoy the right . . . to have Assistance of Counsel for his defence"; See *Ganz* v. *Bensinger*, 480 F. 2d 88 (7th Cir. 1973); *Barker* v. *Hardway*, 283 F. Supp. 228 (S.D. W.Va. 1968), *aff'd*, 399 F. 2d 638 (4th Cir. 1968), *cert. denied*, 394 U.S. 905 (1969); See generally *United States* v. *Zucker*, 161 U.S. 475, 481 (1896).

[36] *Grabinger* v. *Conlisk*, 320 F. Supp. 1213 (N.D. Ill. 1970), *aff'd*, 455 F. 2d 490 (7th Cir. 1972) (police officer's suspension without pay for refusal to submit to polygraph exam ordered by superior without the presence of counsel did not violate the sixth amendment right to counsel, as the proceedings were purely disciplinary in nature); *Boulware* v. *Battaglia*, 344 F. Supp. 889 (D. Del. 1972), *aff'd without opinion*, 478 F. 2d 1398 (3d Cir. 1973) (police officer's interrogation in the couse of internal disciplinary investigation without a warning of right to counsel did not violate the sixth amendment, as the proceedings were disciplinary in nature); *Jones* v. *Civil Service Commission*, 489 P. 2d 320 (Col. 1971) (failure to advise prison guard of constitutional rights or to allow consultation with counsel during interrogation by the warden in the course of a misconduct investigation did not violate the employee's constitutional rights where the statements were never used in a criminal prosecution); *Wilson* v. *Swing*, 463 F. Supp. 555 560–61 (M.D. N.C. 1978).

[37] U.S. Const. amends. V and XIV.

[38] *Arnett* v. *Kennedy*, 416 U.S. 134 (1974). For a more detailed discussion of the requirements of procedural due process in termination proceedings see "Public Employment and the U.S. Constitution—Recent Supreme Court Opinions" by Special Agent Daniel L. Schofield, published in the July and August 1978, issues of the FBI *Law Enforcement Bulletin.*

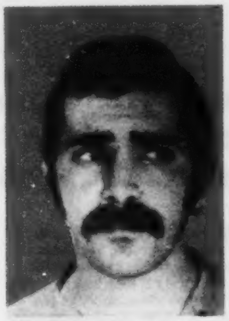
[39] *Hannah* v. *Larche*, 363 U.S. 420, 441 (1960); *United States ex rel. Catena* v. *Elias*, 465 F. 2d 765 (3d Cir. 1972); *Womer* v. *Hampton*, 496 F. 2d 99 (5th Cir. 1974).

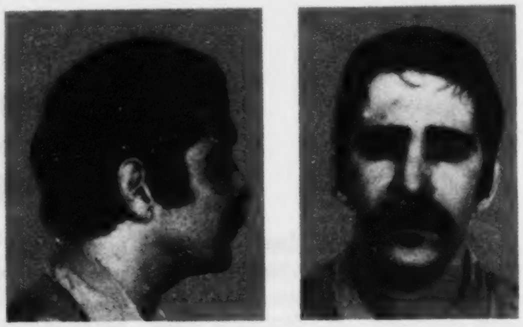
[40] *Grabinger* v. *Conlish, Boulware* v. *Battaglia, Jones* v. *Civil Service Commission, supra* note 36.

[41] *Grabinger* v. *Conlish, supra* note 36.

[42] In *McLean* v. *Rochford, supra* note 32, the court upheld a dismissal of a police officer based upon his refusal, after a proper warning and assurance, to answer his employer's work-related questions, even though he was relying on advice of his attorney who was present during the interview.

WANTED BY THE FBI


Photograph taken 1971.


Photographs taken 1973.

Luis R. Archuleta

Luis R. Archuleta, also known as Lorenzo Buscateri, Lawrence Carbone, Jose Martinez Lopez, Lawrence Larry Pasateri, Ramon Benito Trevino Pedrosa, Benito Trevino Pedroza, Larry Pusateri, Larry Lurcea Pusateri, Larry Luneca Pusateri, Lawrence Pusateri (true name), Lawrence Carbone Pusatari, Lorenzo Pusatari, and others.

Wanted For:

Interstate flight—Escape, Holding hostages.

The Crime

Archuleta is being sought by the FBI for holding a prison guard hostage, using a .38-caliber handgun, during his escape from custody. At the time of escape, Archuleta was serving a lengthy sentence for shooting and seriously wounding a police officer.

A Federal warrant was issued for his arrest on June 13, 1977, at Denver, Colo., charging Archuleta with unlawful interstate flight to avoid prosecution for the crimes of escape and holding hostages.

Criminal Record

Archuleta has been convicted of burglary, robbery, narcotics violations, contempt of court, and assault with a deadly weapon on a police officer.

Description

Age	37, born January 6, 1943, Brooklyn, N.Y.
Height	5'7".
Weight	150 pounds.
Build	Medium.
Hair	Brown.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	American.
Occupation	Barber.
Scars and Marks	Scar on left eye; tattoos: cross with branch of flowers and "GLORIA" on left arm; butterfly and woman's head on right arm; rose on chest; rosary entwined with madonna on back.
Social Security No. Used	549-56-8517.
FBI No.	817,439 D.

Caution

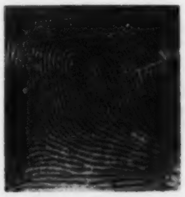
Archuleta should be considered armed, dangerous, and an escape risk.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data:

NCIC Classification:
PO6712PO142065PMPI15
Fingerprint Classification:
17 O 11 R OOO 14 Ref: 11
L 18 R OMI 20


Right middle fingerprint.

U.S. GOVERNMENT PRINTING OFFICE : 1980 O—313-563

Change of Address

Not an order form

FBI LAW ENFORCEMENT BULLETIN

Complete this form and return to:

Director
Federal Bureau of Investigation
Washington, D.C. 20535

Name		
Title		
Address		
City	State	Zip

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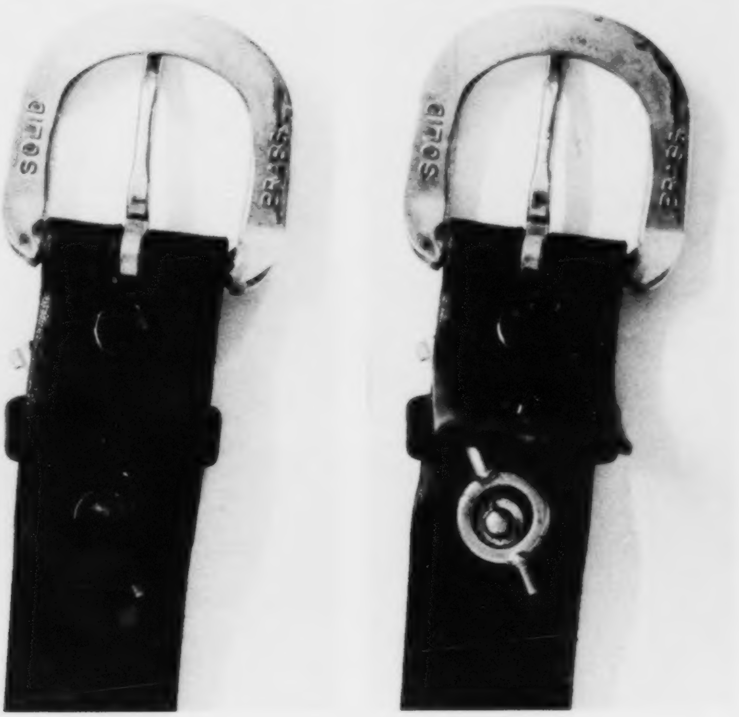
A man's belt can be used by criminals to conceal a handcuff key. This belt was found by law enforcement authorities in a vehicle abandoned by a former FBI Top Ten fugitive. When the belt is being worn, the key is well hidden, but readily accessible when needed.



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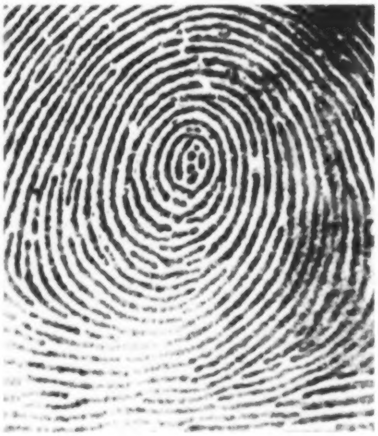

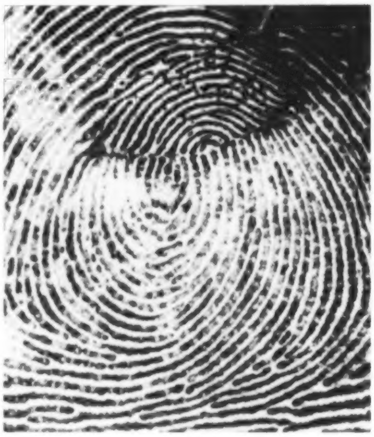

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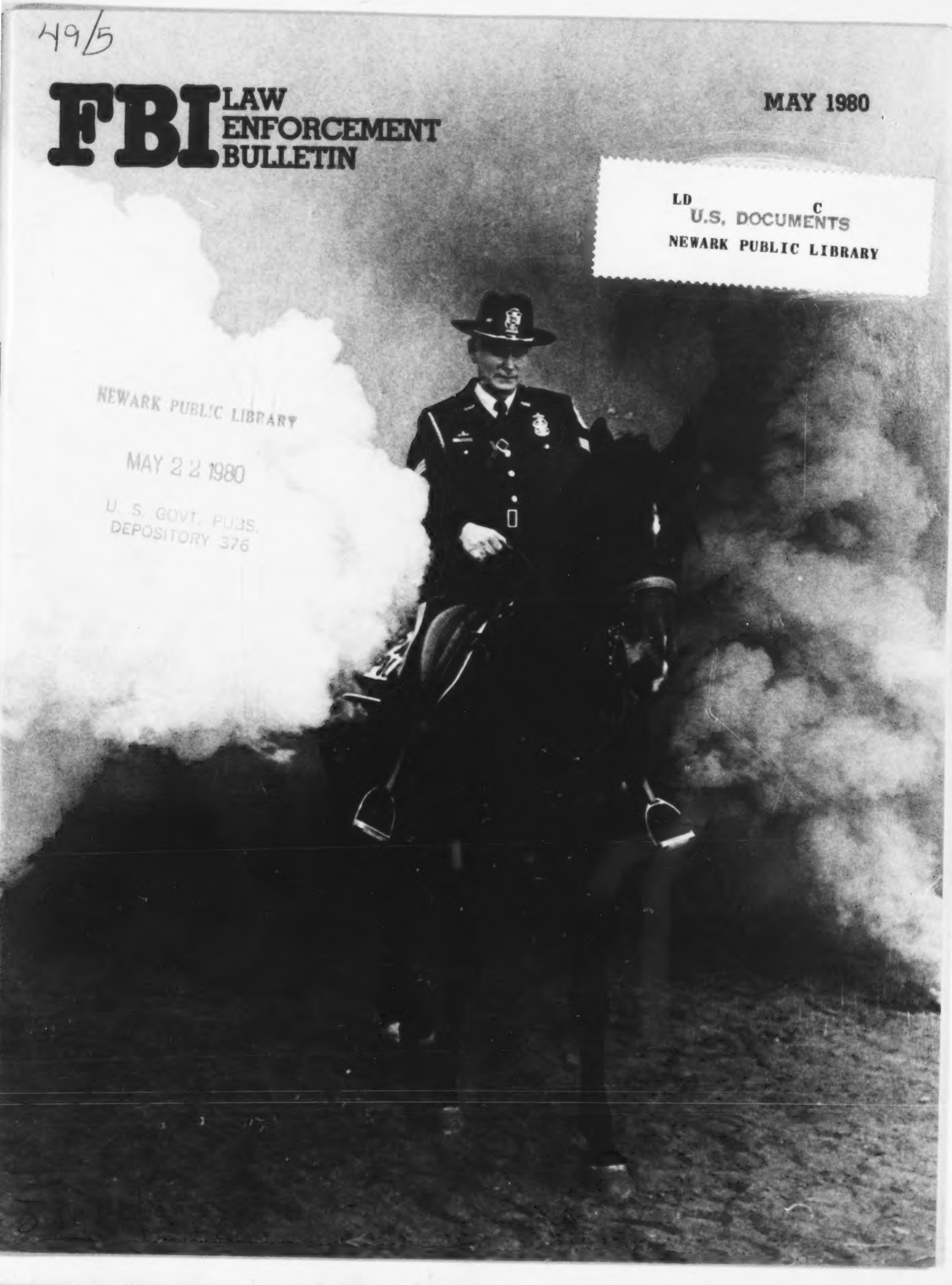

FBI LAW ENFORCEMENT BULLETIN

MAY 1980, VOLUME 49, NUMBER 5

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William H. Webster, Director

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Effects of Organizational Design on Communication Between Patrol and Investigative Functions

(Part I)

By LT. COL. JOSEPH J. STAFT
Police Division
Cincinnati, Ohio

A major concern for the administrator of any large organization is that of maintaining harmonious relations, open channels of communication, and coordinated activities among his agency's subunits. The very nature of the executive function is to promote cooperative effort.[1] While a free flow of information is essential in any organization, the problem is more critical in a police agency. By far, the greatest bulk of work depends on its ability to process information effectively.

One of the most critical intra-agency interfaces in a police department is that of the investigative and patrol functions. To operate efficiently, each function should be highly dependent on the other. Yet, this is often one of the most strained points of exchange within law enforcement agencies.

The problem of maintaining cooperation and exchange of information between uniformed patrol officers and plainclothes investigators is not a recent one. As early as 1926, the Missouri Crime Survey reported on the problem, stating:

"The ancient rivalry between the uniformed and plainclothes forces has a substantial basis. It arises from the fact that in a given case the patrolman is often the first to risk life and limb. With the arrival of detectives, however, he is automatically displaced. The plainclothes operative takes command of the situation, and the patrolman returns to his beat. This condition inspires a natural resentment, which sometimes leads to a series of retaliatory acts by the two branches. In the maneuvers which follow, the public functions of the officer are lost sight of. Their energies are directed at causing each other confusion, discomfort, and discouragement."[2]

Later comment on the same point was made in a 1962 consultant's report, which reads:

"The lack of coordination between detective and uniformed divisions leads to duplication of effort, unarticulated field work, and the loss of some cases, and the missing of arrests which might otherwise be made."[3]

A police officer and a detective investigate a crime scene.

Lieutenant Colonel Staft

Col. Myron J. Leistler
Chief of Police

It is not likely that difficulties in investigative-patrol coordination are confined to only a few police departments. Most police administrators would have to admit to experiencing some communication problems between these units, although differences would likely be in degree, not in kind.

Several contemporary observers of police behavior have commented on oft-times strained relationships between police patrol and investigative forces. Professor Egon Bittner of Brandeis University writes, "The hostility and information denial between bureaus and details of department is occasionally admitted. But that every individual officer has important information that he does not share with anyone is virtually never mentioned in the literature. Yet this is a central fact of police work and every officer learns it in the first year of his practice."[4] Professor Arthur Niederhofer of John Jay University comments that when the patrolman uncovers a felony from which the suspect has fled, the case is turned over to the detectives who, if they find the culprit, get all the credit.[5] Harvard University Professor James Q. Wilson, in his study of police behavior, has much to say about differences between the patrol and investigative functions.[6] The patrolman functions in an uncertain, hostile atmosphere with the ambiguous, often unpopular, mandate to "maintain order." The detective, however, usually enjoys higher prestige and higher pay, more interesting work and more freedom, and has a better sense of what is expected of him. When one reflects upon these differences, it does not seem strange that conflicts may arise between operational units.

Factors Influencing the Problem

The difficulties in maintaining cooperation and coordination between the patrol and investigative functions can be grouped into three general classes of interrelated problems: Organizational problems, social problems, and inadequacy of information systems.

The Presidential Task Force Report on the Police describes the manner in which organizational structure can adversely effect coordination of activities between the investigative and patrol functions.

"In almost all large police departments there is a considerable amount of organizational fragmentation. Traditionally and almost universally, patrol and investigative forces have separate lines of command and tend to be isolated from one another; often they keep separate sets of records; frequently they work different shifts or are based in different places so that there is a minimum of contact between patrolmen and detectives. In addition, investigators are more often than not divided at both headquarters and precinct levels into squads—vice, robbery, burglary, fraud, homicide, and so forth—that may themselves keep separate records, use separate informants and remain more or less isolated from each other in other ways. At both the staff and the field levels, this overseparation of functions, or overspecialization, can have undesirable results. When intelligence is not centralized and coordinated, staff planning for the purpose of either apprehending specific criminals, or solving crime problems such as, for example, an outbreak of burglaries in some neighborhoods, is almost impossible. When lines of command are kept rigidly separate, it is difficult to bring the full resources of a department to bear on crime solution."[7]

Rigid and separate lines of command imply equally rigid and separate channels of communication. If each bit of information relevant to solving or suppressing crime must travel up the chain of command to a common point, then back down to the affected unit, little information, indeed, could be processed.

Competition between units can be a very useful tool for motivation and morale, if the competing units can operate independently of one another. However, when tasks are interdependent and exchange of information is critical, competition becomes counterproductive. Intergroup conflict probably dissipates more energy and money than any other single organizational disease.[8] Competition can produce "win-lose" intergroup orientation, dysfunctional loyalty to subunits instead of the overall organization, and cognitive distortions of behavior of competing group members. Communication processes are impeded. If organizational rewards, such as promotion and preferential assignments or unit and individual prestige, are bestowed on the basis of "who gets credit" for arrests, case closures, and the like, a situation develops which encourages officers to keep information to themselves and withhold aid to other officers or units competing for "credit" for the arrest or closure. The organizational reward system should not induce competition which is so intense that it frustrates rather than furthers organizational goals.

The manner in which responsibility for investigation of cases is assigned can also affect task performance and cooperation between units. Traditionally, patrol units have been given responsibility only for preliminary investigations or complete responsibility for investigation of "minor" offenses. At some point prior to the conclusion, responsibility for investigation of serious crimes is handed off to the investigative specialists. Hence, the patrolman feels he is left with only routine and mundane investigations, while the detective investigates the interesting or spectacular cases. The patrol officer, relegated to the role of "report taker," may see little personal incentive to conduct a thorough and meticulous preliminary investigation or to forward any information not specifically required by procedure when he knows he has no responsibility for the ultimate closure and will receive no credit for a subsequent arrest made by the detective bureau.

Social Problems

It was suggested previously that the functions of the detective and patrol officer differ somewhat. Both Wilson and Bittner comment at length on these differences. The patrolman is concerned with "keeping the peace," a very ambiguous and uncertain job description. The range of incidents with which he must deal is very wide. He often lacks the legal tools to "keep the peace," and the controversial nature of the tasks prevents common public support of his activities. The detective, however, has a fairly certain task, that of identifying and arresting the perpetrators of crimes. His task does not begin until a crime has been committed. The legal domain in which he functions is clearly documented, and there is general public support for the arrest and prosecution of felons.[9]

". . . organizational structure can adversely affect coordination of activities. . . ."

In addition to differences in assigned tasks, the status and prestige of the patrol and investigative officers differ. The detective enjoys higher prestige and usually higher pay than the patrolman. His task is more interesting and glamorous, at least as perceived by the public. His hours are better, he has greater freedom in his work, and he is under less public scrutiny than his uniformed counterpart. The patrolman, however, is subject to a strong hierarchial command structure, tightly restricted by rules, bound by military discipline, and under constant public scrutiny.[10]

Unfortunately, the news and entertainment media, particularly television and the movies, has reinforced the glamourous image of detective work as opposed to patrol duties, which are often portrayed as being dull and routine, requiring little initiative or mentality. These real and perceived differences in role and image create a cleavage between two groups of men who should be working together toward a common cause. The lack of a common identity may result in a "we vs. they" relationship between the groups. This relationship clearly is not conducive to close cooperation and exchange of information needed for combined crime reduction efforts.

Bittner feels strongly that because of the nature of the officers' tasks, they feel a great need to maintain an atmosphere of secrecy in respect to disclosing information to "outsiders."[11] He feels this subcultural trait then carries over into intradepartmental relationships, resulting in an unwillingness to share information even with fellow officers.

The unique nature of the relationships between the officer and his informants also contributes to the need for secrecy. Because police informants are part of, or on the fringe of, criminal activity, and because of the mutually beneficial nature of the exchanges between the informant and officer, it is in the best interests of both to maintain the confidentiality of their arrangement. If the informant felt that his identity might be compromised to another officer with no vested interest in the informant's welfare, that important source of information might dry up.[12]

Even if all members of a police organization were willing to share all information at their disposal with all other law enforcement officers, it would not be possible without adequate information systems. Information systems include national, regional, and local computer systems, electronic data processing systems, telephone and teletype networks, formal records systems, established channels for routing information, and personnel to operate these systems.

A crime victim is interviewed by patrol and investigative personnel.

Cooperation between patrol and investigative forces is an integral part of departmental operations.

Even though creation of the systems might be far simpler than inducing personnel to feed information into them, the mechanics of providing the systems must not be overlooked. These systems should be considered when examining communication capabilities of a police organization.

Implications of Organizational Design

Perhaps the greatest single factor which affects the information processing capability of an organization is its formal structure. Reporting and authority relationships between subunits of an organization have significant impact on the development and maintenance of formal and informal information channels.

In any viable organization, information must flow (1) from top to bottom, (2) from bottom to top, (3) laterally or horizontally, and (4) between the organization and its environment (including cooperating agencies).

Throughout the history of organizational design, a wide range of concepts, generally classified as classical, human-relations, or modern approaches, have emerged.[13] There are advantages and disadvantages of each type of organization as it relates to improving communications between investigative and patrol personnel, and no attempt should be made to prescribe an organizational strategy suitable for any or all police agencies. Rather, an attempt has been made to document some of the organizational trade-off costs and benefits to be considered when examining the issue of patrol-investigative cooperation. The following "contingency theory"[14] of organization is commended to the reader; however, there is no one best way to organize, and any way of organizing is not equally effective.

Classical Approach

Classical organizational theorists have differed somewhat in details of their theories. To grossly generalize, however, let it suffice to say that the classical approach generally suggests that the tasks of an organization be divided among one or several bases of specialization, subunits be created to accomplish each of the specialized tasks, and coordination of the subtasks be attained through a hierarchial authority structure with each superior manager coordinating the activities of the persons and units beneath him in a rigid chain of command.

The organizational principles of business scholars Bulick and Urwick[15] are perhaps the most representative of the traditional approach most police departments have taken toward organization. Both advocate the division of labor because men are limited in their abilities. The range of knowledge and skills required in a modern police department is so great that one man could not possibly become expert in all areas in his entire lifetime. Therefore, some division of labor, or specialization, must occur.

Specialization offers certain advantages to a police agency. It permits precise placing of responsibility, more intensive training of specialists, development and maintenance of skills through continual experience, creation of esprit de corps, and increased support from certain public special interest groups.[16] Consideration of these advantages would certainly be justified when contemplating establishing or eliminating specialized investigative units. However, for each of these advantages, there are corresponding disadvantages, which will be noted later.

After a decision has been made to specialize within an organization, the classical theorist would provide means by which activities can be coordinated. Gulick and Urwick contend that coordination of effort can be achieved through organization, i.e., interrelating subdivision of work by allotting them to men who are placed in the structure of authority so that the work may be coordinated by orders of superiors to subordinates, reaching from the top to the bottom of the organization, or by dominance of an idea, i.e., intelligent singleness of purpose of all in the group so each worker will fit his task into the whole with skill and enthusiasm. These two methods are not mutually exclusive; in fact, effective organizations must have both.[17]

In applying the preceding to the organization of investigative and patrol functions, the chief would first determine the scope of the investigative responsibility assigned to his agency, and then the nature and number of specialized work units required, e.g., crimes against person or property squads, vice squad, patrol precincts, etc. Following this, he would create an appropriate organizational and authority structure, with authority flowing down through clearly identified chains of command and responsibility.

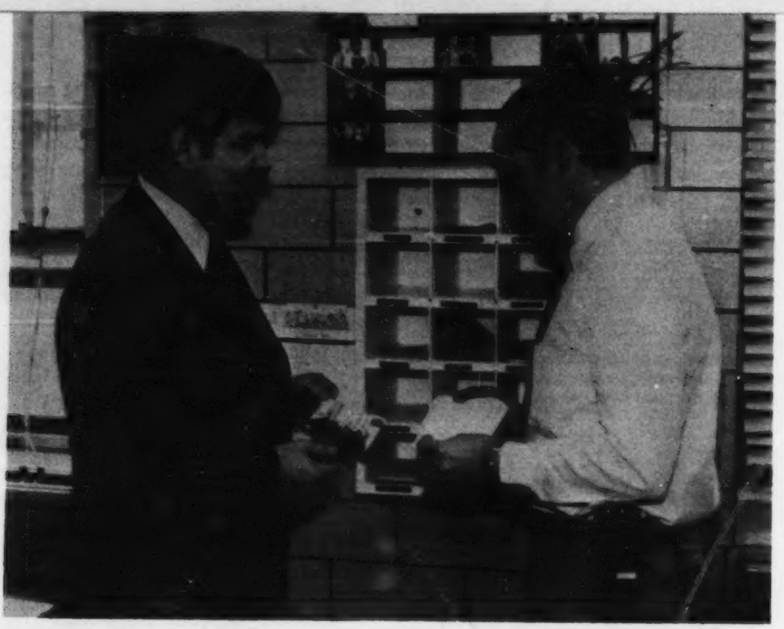
"To operate efficiently, [investigative and patrol functions] should be highly dependent on the other."

Some other principles the classical theorist would consider are span of control, unity of command, development of technical efficiency, and authority commensurate with responsibility.

Gulick and Urwick suggest the divison of labor in an organization be based on purpose, process, clientele, and/or place.[18] Other writers include specialization by time. Examples of each of these bases of specialization can be found in the organization of the investigative function of contemporary police agencies, and each has inherent strengths and weaknesses which must be considered when relating organization to communication capabilities among members of a police agency.

Examples of police subunits organized on the basis of purpose of function are investigative bureaus, homicide, robbery, burglary or vice control squads, traffic enforcement details, etc. Each of these units is responsible for some function or purpose of the police mission, e.g., detection, apprehension and prosecution of robbery suspects, prevention of traffic accidents and apprehension of violators, suppression of vice activity, etc. Organization by purpose facilitates the accomplishment of certain assigned objectives by bringing trained specialists and specialized resources together under a single manager who can be held accountable for attainment of a desired state of affairs. The unit can be judged by what it accomplishes, not by its methodology. This type of organization is effective for gaining energies and loyalties of assigned officers because their purpose is clearly understood.

Difficulties arise when purposes overlap or conflict. A patrol unit and a specialized investigative unit may be jointly charged with responsibility for the same task. For example, a local patrol precinct and a specialized robbery squad may share responsibility for reduction of the robbery rate in a certain high-crime area. Each of the units reports to a separate commander, both of whom are at least informally evaluated by how effectively robberies in that area are reduced. Each of the commanders may have his own ideas how this might be accomplished and each wishes to receive credit for improving the crime situation. This type of coresponsibility for the same results negates the advantage of specialization by purpose. It may result in the two units working at cross-purposes, refusing to share critical leads, and duplicating efforts. In this case, competition becomes dysfunctional and cooperation and communications between the patrol and investigative units are impaired.



A detective and patrol officer exchange information regarding a case.

An equally dysfunctional situation exists when subunit purposes conflict with other subunit or agency goals. Often, when personnel over-concentrate on purposes of their own subunits, they lose perspective of the overall goals of the agency. A vice control specialist, through much personal effort, may develop an informant who advises him of habits and whereabouts of narcotics dealers, illicit gambling or liquor establishments, or other vice-related activity. The vice officer may learn that the informant himself is involved in criminal activity, but may be sorely tempted to withhold this knowledge from fellow officers rather than lose his personal source of information.

Organization by process is most advantageous for grouping skills which require a high degree of technology or long periods of training and experience to gain proficiency. Specialists of this type would include police helicopter pilots, traffic radar operators, canine handlers, identification specialists (fingerprint and photography experts), evidence technicians, etc. Advantages accrue by permitting highly trained specialists to share expensive equipment, exchange technical information, and keep abreast of the latest innovations in their field. They are grouped into single units that can be supervised and coordinated by one supervisor who possesses the specialized knowledge needed to direct and evaluate his subordinates. Process specialization permits attainment of the highest levels of proficiency in technical (and perhaps infrequently used) skills.

Specialization by process offers little advantage if the frequency of need for a particular skill is not great enough to justify at least one man being assigned full time. Any given process can accomplish only a small part of the overall goals of a police organization. Coordination problems are increased each time a new specialized process is added onto the organizational structure. Process specialists may become so engrossed with perfecting their technical skills that they lose sight of the reason for performing the function. For example, a canine handler may become more interested in interdepartmental canine competitions than in suppressing criminal activity, or a scientifically oriented evidence technician may be more interested in publishing articles in scientific journals than assisting field officers with processing crime scenes or identifying perpetrators. The police administrator must insure that the process specialist contributes to the organizational effort by cooperating with line units rather than practicing his art in the vacuum of his own subunit specialty.

Certain police functions are grouped according to the clientele they serve or upon whom they focus their investigation. The most obvious example of this would be a police juvenile unit. Juvenile officers, through special aptitude, long and frequent experience, and specialized training, become uniquely qualified to handle cases involving juvenile victims or suspects. Some cities have initiated specialized units to handle victims of rape. Intelligence squads concentrate investigations on suspected organized crime figures. Any unit organized by type of crime somewhat implies that it will deal with certain clientele groups. For instance, a check and credit card squad deals primarily with community merchants and personnel of credit agencies on an ongoing basis and frequently encounters recurring suspects. Clientele become known to the investigator. Faces and M.O.'s of bad check artists became familiar to the investigator who benefits from the relationships developed with his clientele over a period of time.

Organizing by clientele, however, means the loss of some advantages of other specializations. Obviously, a juvenile squad could not afford to maintain its own evidence technician, narcotics expert, or identification specialist, even though all these skills might be needed in an investigation involving a juvenile. The clientele-based unit must depend on cooperation of the process specialists for assistance.

There is the danger that clientele-oriented groups may form stronger allegiances with its target group than with its own agency. An example of this type of coopted behavior is a check squad investigator who acts in the special interest of a merchant by emphasizing only restitution of financial loss in lieu of apprehension and prosecution of criminal offenders.

Due to differences in orientation, goals, and values of the specialist, he may experience difficulty in communicating with other members of the department. Sarcastic references to "kiddie kops" (juvenile officers), "dogooders" (community relations officers), or "pencil-pushers" (desk or administrative officers), are not uncommon. Uniformed field patrol officers understandably may not identify with the specialized officers and may not feel a fraternal obligation to share street-acquired knowledge with the specialists. Clearly, the situation also works in the reverse direction, i.e., specialized investigators also withhold information from patrolmen.

Gulick and Urwick consider organization by area to be tertiary or secondary.[19] Division of work by geographical area occurs in all but the very smallest of police departments, however. Most large departments are divided into patrol districts or precincts which are responsible for providing police services to a given area of the city. Precincts may or may not have their own investigative personnel. To the extent that patrol officers and investigators can be assigned within the same geographical boundaries without competing against each other, communications and cooperation can be improved. The mere fact that the patrol officers and investigators are likely to have frequent face-to-face contact encourages exchange of information. Additionally, both the patrol and investigative officers may feel a common responsibility for providing service to the same geographical area. If cotermination of boundaries does not exist, however, geographical organization in itself will have little effect on improving patrol-investigation interaction. A uniformed beat officer may possess enormous amounts of information about an area within his beat boundaries, but if a detective has responsibility for investigating cases throughout the city, it is likely that the investigator will fail to solicit information from the officer which might assist his investigation.

Specialization by area presents many of the same hazards as other forms of specialization. By emphasizing effective and efficient law enforcement in one particular area, an officer may fail to consider the department's overall problems. Crime and criminals seldom restrict themselves to neat geographical boundaries. Whenever a police function is specialized by area, provisions must be made to coordinate the flow of information across intracity and intraorganizational boundaries.

Any agency which operates beyond an 8-hour shift, 5 days a week, must consider coordination by time. Police departments are responsibile for effective performances of the law enforcement function 24 hours a day, 7 days a week. The same officer who initially investigates an offense may not necessarily be the same officer assigned to the follow-up investigation. In fact, the assigned investigator may be working a different time period than the officer who possesses information relevant to the investigation, complicating the task of communication. While much of the investigator's work must be performed during "business hours" when witnesses, victims, and records are available, some consideration must be given to the need for the investigator to communicate with the officer who made the original report and did the initial investigation. That officer is likely to have intimate knowledge of the area where the offense occurred and of the people who frequent the area. He may even have specific information or ideas relating to the crime under investigation which does not appear on the report. It appears obvious that the reporting patrol officer should be a primary source of information for the investigator. Conversely, the investigator may turn up suspects or descriptions of suspects which would be invaluable to the patrol officer seeking to prevent recurrences of criminal activity on his beat. Yet, due to differences in working hours, the exchange of information may never occur.

Division of labor by time further complicates coordination, because a supervisor who is responsible for a given function or area cannot always be physically present to direct activities of subordinates or to act as a facilitator for inter and intragroup communications. If duty hours prevent face-to-face communication between officers, information exchange must depend on written reports or relay by a third person. Neither of these forms of communication is as effective as personal dialogue.

In summary, a police agency which is solely dependent on the classical form of organization limits development of critically needed channels for lateral communication between patrol officers and investigative specialists. As each specialized subunit is created, additional communication problems develop. Subunits are likely to become preoccupied with their own objectives instead of working toward the agency's overall goals, they may fail to volunteer assistance and information to another subunit, or even worse, they may deliberately frustrate efforts of competing subunits. **FBI**

(Continued next month)

Footnotes

[1] Chester I. Bernard, *The Functions of the Executive* (Cambridge, Mass.: Harvard University Press, 1968), p. 216.

[2] "The Missouri Crime Survey" (New York: The MacMillan Co., 1926), pp. 46–47; in *Task Force Report: The Police* (Washington, D.C., 1967), p. 53.

[3] Public Administration Services of Chicago, "Police and Fire Services in Meriden, Conn., (Chicago, Ill.: Public Administration Service, 1962), p. 36; in *Task Force Report: The Police*, p. 53.

[4] Egon Bittner, *The Functions of the Police in Modern Society* (Chevy Chase, Md.: National Institute of Mental Health, Center for Studies of Crime and Delinquency, 1970), p. 65.

[5] Arthur Niederhofer, *Behind the Shield: The Police in Urban Society* (Garden City, N.J.: Doubleday and Co., 1967), p. 56; in James Q. Wilson, *Varieties of Police Behavior* (New York: Atheneum, 1970), p. 68.

[6] Wilson, pp. 16–56.

[7] *Task Force Report: The Police*, p. 53.

[8] Warren G. Bennis, *Changing Organizations* (New York: McGraw-Hill Book Co., 1966), pp. 57–58.

[9] Wilson, pp. 16–53

[10] Bittner, p. 58.

[11] Ibid., p. 63–71.

[12] Ibid.

[13] John C. Buechner, *Public Administration* (Belmont, Calif.: Dickenson Publishing Co., 1968), p. 24.

[14] Jay Galbraith, *Designing Complex Organizations* (Reading, Mass.: Addison-Wesley Publishing Co., 1973), p. 2.

[15] Luther Gulick and L. Urwick, *Papers on the Science of Administration* (New York: Institute of Public Administration, 1937).

[16] *Municipal Police Administration*, Esther M. and George D. Eastman, ed., (International City Management Association, 1971), ch. 3.

[17] Gulick and Urwick.

[18] Ibid.

[19] Ibid.

Crime Problems

AGRICULTURAL CRIME
Its Extent, Prevention and Control

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A conventional theory is that crime is fundamentally a city phenomenon. The reality of this notion is underscored by the most recent statistics for reported crime which reveal that 30 percent of all serious crimes take place in the 57 cities with populations of 250,000 or more.[1] However, during the past decade, serious rural crime has increased 43 percent over the urban rate. For example, crimes such as the thefts of farm equipment, grain, livestock, lumber, and pesticides are now much more commonplace than they were a decade ago.

Unfortunately, many of the formalized institutions responsible for both training and educating police officers have not paid adequate attention to agricultural crimes. This point is underscored easily. All one has to do is review the curriculum of police academies responsible for training rural police officers to see how much time is devoted to the topic of agricultural crime, check the advertisements for specialized police training courses to see how many devote either an entire course or even a segment of a training course to the investigation and prevention of agricultural crimes, or review police journals and textbooks to see how many articles or sections of textbooks are devoted to this topic. What one quickly discovers is that little attention has been paid to this serious and surprisingly costly category of crime.

Some Dimensions of Agri-Crime

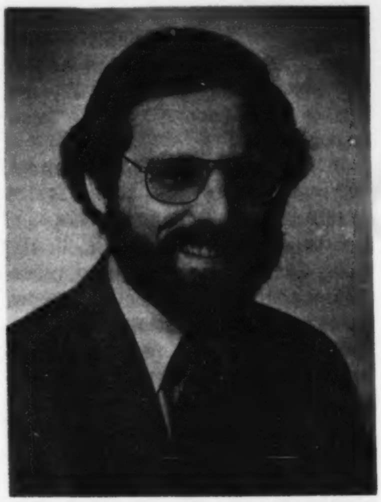
Vandalism to and thefts of farm products and equipment is a problem which can be illustrated throughout the country. In Dade County, Fla., the value of avocado, lime, and mango fruit stolen annually is $1 million,[2] and authorities in that State calculate thefts of property in rural areas to be $21 million per year.[3] A representative of the Florida Farm Bureau Federation asserts that organized crime is moving into the rural areas, and a Florida State representative maintains that organized crime is already heavily into agriculture.[4] The experience of three other States supports this theory. Persons alleged to have ties to a New York City organized crime family apparently defaulted on payments to a group of Wisconsin dairy farmers, and in Indiana, this same group apparently defaulted on payments to a farmer's cooperative. Altogether, these groups were hit with losses of $1,350,000.[5] In South Dakota, the attorney general was successful in obtaining a grant to investigate organized criminal activity in multistate grain frauds.[6]

The California experience echoes that of Florida. The California Farm Bureau estimates annual farm losses due to theft at $30 million,[7] and in a single county of that State, irrigation equipment valued at nearly $1 million has been stolen during the past 2 years.[8] California's incidents of rustling increased 79 percent in 1976, but that increase was exceeded by New Mexico's devastating 300-percent increase in 1978. Other types of farm animals are also routinely stolen. For example, an Iowa farmer relates that while he was hospitalized, thieves not only took 25 of his hogs but also used his pickup truck to transport them.[9] In one Indiana county, the value of hogs stolen in a single year reached nearly $200,000,[10] and one prominent North Carolina dirt feeder estimated his losses to be tens of thousands of dollars each year.[11]

Normally conceived of as a place suitable for undisturbed reflection, our forests even are becoming places of crime. Timber losses in western Washington have been reported to run $1 million annually, and it is estimated that 70 percent of the vandalism to and thefts of timber go unreported[12] in that State. In some Iowa State parks, including Des Moines' Grandview Park, thefts of trees have been a problem,[13] and in Illinois, 90 percent of tree thefts are believed to be unreported.[14]

Fires of an incendiary origin are a problem across the Nation. In 1976, fires of this type produced losses of $11 million in national forest protection areas.[15] Individual States have the same problem. In 1977, 3,914 fires of an incendiary origin resulted in the burning of 25,388 acres[16] in Georgia.

It has been estimated that pesticide thefts exceed $2 million each year, and in recent years, organized crime rings have struck pesticide distributors in Tennessee, Missouri, Iowa, Illinois, and Indiana.[17] The CIBA Agrichemical Corp., was one of the first to be burglarized when thieves took sizable quantities of Cotoran herbicide from its warehouses. One owner, who was the victim of a burglary, commented, "This isn't any helter-skelter operation. Those men knew our simazine inventory within 100 pounds, they were accurate on our Treflan inventory, and knew just about everything we had in stock. Why, they even knew the lot numbers. They also knew when our police patrolled the area and who was on duty. It was organized. They drive expensive cars equipped to monitor police radio broadcasts. They bring in semi-trucks to take away the pesticides."



Dr. Swanson

Dr. Territo

The sheriff of Washington County, Miss., investigated a pesticide burglary ring which operated for over 2 years, netting one member $30,000 in black-market sales.[18]

The FBI reports that between 1976 and 1978, more than 70,000 stolen cars, trucks, earthmovers, and farm tractors were not recovered.[19] One informant estimated, based on experience, that it takes about 4 minutes for tractor thieves to invade either a dealership's lot or a farm, start up a tractor, load it on a truck, and drive away.[20] According to the informant, the gang would case the premises before the theft, and immediately after stealing the equipment, would deliver it directly to the customer who had earlier placed an order. A single theft ring operating in four Southeastern States is credited with stealing some $400,000 in farm equipment in the past 2 years.[21] In Georgia, losses due to theft of farm equipment, chemicals, seeds, and livestock exceeded $300,000 during the first 5 months of 1978.[22] Several years ago, local, State and Federal law enforcement officials in northern Florida confiscated $370,000 worth of stolen farm and industrial equipment, trucks, trailers, and other goods as a result of five raids and other confiscations.[23] These raids were conducted by Agents of the FBI, the U.S. Treasury Department, the Alcohol, Tobacco and Firearms Division, The Florida State Department of Criminal Law Enforcement, and the Sheriffs of Florida's Washington and Holmes Counties. According to officials, the majority of equipment came from Alabama, but items stolen in Arkansas and Florida were also identified. Many of the identifying numbers and plates on the equipment had been filed off, acid-defaced, or removed; however, some of the numbers were restored by identification restoration techniques. There is reason to believe that some of the stolen equipment was being readied for shipment to Central and South America and that some had already been shipped.[24]

Other groups that have experienced problems are poultry ranchers, grain farmers, and beekeepers, who have experienced the theft of entire colonies.

How serious is the problem? One survey of 477 Iowa farmers revealed that 80 percent had been victims of theft during the past 3 years.[25] How big is the economic impact of crimes against agriculture? Answering that question is difficult since not all of the figures reported here were for the same year, some of the figures were estimates, and there is a general lack of information in this area. If $65 million—a conservative estimate—in reported vandalism, fraud, arson, and theft is 3 percent of the problem, and if agri-crime is only 25-percent underreported, then a direct loss figure of approximately $3 billion is obtained. This figure excludes the indirect costs of agri-crime, such as the higher prices ultimately paid by consumers. By comparison, arson, a current national crime, produced annual losses of $1.1 billion in 1975.[26] In addition to the direct and indirect costs of crimes against agriculture, there may be certain social costs as well. The amount of land farmed by Blacks is decreasing by 200,000 acres per year.[27] Although the decline is probably due to the interplay of many factors, it is reasonable to speculate that crime may be among the factors leading to the Black population's increasing underrepresentation among the Nation's farmers.

Crime Control and Prevention Efforts

There are a variety of crime control and prevention efforts underway in the various States. However, despite the fine work and cooperation of some groups and agencies, these efforts are somewhat disjointed, and there appears to be a certain amount of "reinventing the wheel" as different figures and organizations grapple with the issue. In balance, while this diversity perspective may produce some "wheel-spinning," it also offers the opportunity for the development of innovative responses.

A sampling of projects reinforces the notion of a diversity perspective. Aided by funds from the Law Enforcement Assistance Administration, police agencies in States such as New Hampshire, Arizona, Ohio, California, Kentucky, Oregon, Louisiana, and Montana have strengthened their patrol of rural areas and entered into cooperative arrangements to combat particular types of agri-crime.

The theft of cattle, swine, and other animals poses difficult problems. Several animals may be taken in less than 10 minutes in a one-time opportunistic theft. Alternately, organized thieves may spend weeks—using helicopters, fixed-wing aircraft, and trucks and walking the ground dressed as hunters or fishermen—to plan raids in which large numbers of animals are taken, often to be sold and butchered within hours of their disappearance. With an eye to preventing losses, the following steps should be of assistance:

1) A permanent brand, tattoo, or other similar marking system is essential for the identification of livestock. The marking should be distinctive and applied to stock soon after birth. Electronic identification may be emerging as an alternative to traditional identification schemes. Researchers at the Los Alamos Scientific Laboratory (LASL) in New Mexico have field tested an identification and temperature monitoring system. A small electronic transponder is implanted

under the animal's hide. Microwaves from a pistol-shaped gun activate it and provide a reading of the animal's unique identification number and temperature. This system has 3 digits for identification, but LASL scientists believe it can handle up to 15.[28]

2) Signs should be conspicuously posted around the property indicating that all animals are permanently branded.
3) Whenever possible, livestock should be counted on a daily basis. It has been estimated by law enforcement officials that more than 80 percent of livestock thefts occur away from buildings in isolated pastures or feedlots.
4) Predictable absences should be avoided, and when away, neighbors should be requested to check the property.
5) Fences and gates should be checked on a regular basis. Good fences and closed gates prevent strays that are especially vulnerable to opportunistic livestock thieves. Gates leading to outlying corrals and loading chutes should also be locked, with chains being used across roads leading to these areas.
6) Law enforcement officials should encourage farmers and ranchers to report missing stock immediately. It has been estimated that 35 to 40 percent of all livestock thefts are never reported and less than half are reported promptly.

In terms of other activities, Florida nurserymen are known to have formed vigilante groups to counter thefts of their products, a rustling information clearinghouse has been established by the Oklahoma Cattlemen's Association, the Western State Livestock Association has developed a uniform system for marking tack, and the Kansas Sheriffs' Association has been active in promoting crime awareness and crime prevention.

Several States, including Kansas, Iowa, and Georgia, have implemented farm equipment marking programs. In the latter State, a consortium of organizations—the Georgia Bureau of Investigation, the Sheriffs' Association, and the State Farm Bureau—has been particularly cooperative and active in this regard.

An often overlooked aid is the International Association of Chiefs of Police's *Tractor Identification Manual,* an investigative aid that is intended to be of assistance in identifying stolen and recovered agricultural and industrial tractors of over 20-engine horsepower and to facilitate the correct entry of data on stolen tractors into the National Crime Information Center. This manual is useful in the unique identification of tractors distributed by seven major manufacturers in the United States through the use of identification numbers affixed by the manufacturer. More than one number is usually required for a unique identification. These numbers may include, in addition to the unit or tractor serial number, the model number, engine number, transmission number, axle number, rear-housing number, and cab number. While the numbers that are required vary for each manufacturer, in most cases, a combination of two or more of these numbers will provide a unique identification. Each section of the manual includes the procedures for identifying a particular stolen or recovered tractor, the manufacturer's capability for tracing the original purchaser of a tractor, and in cases where the identification numbers are known, the correct procedure for locating these numbers. Each section also contains the name of a manufacturer's representative who may be contacted to help in the investigation or in any problems that may arise regarding a particular product or case. Some manufacturers also maintain lists of stolen equipment for distribution to service centers and/or dealers and wish to be notified of thefts through the listed contact.

Like many of the other targets of thefts from farms, grain is easy to obtain, readily converted to cases, difficult to identify, and vulnerable, since it is frequently sorted in bins away from the house or even temporarily dumped on the ground. One North Dakota sheriff reported that thieves, using a 2-ton pickup truck and portable elevator, were stealing a few hundred bushels at each of many different farms, and the thefts went unnoticed by the farmers. A special commercial product is available to help the farmer lessen the chance of being a crime victim. One company is marketing uniquely numbered confetti to mix with grain to reduce the desirability of stealing it and to make it more difficult to dispose of immediately. Each piece of confetti has on it the code number assigned to a particular grower. For example, 46-20-040 would be identified in the following way:

46=the State of North Dakota
20=the County of Griggs
040=the producer, the B & W Ranch

If grain theft is prevalent in an area, law enforcement officials in that area should initiate the implementation of a grain identification program. Additionally, encouraging farmers to use protected areas for storage and requirements establishing the identity and legitimacy of grain sellers should be considered.

Recommendations

The following are actions that should be undertaken immediately:

1) Police academies that provide training for rural law enforcement officers should be certain that the topic of agricultural crime, its investigation and prevention are made a regular part of the academic curriculum. Such information would also be quite useful to municipal police officers, who work in those parts of the country with large agricultural areas.

2) Individuals who write police science textbooks, especially those in criminal investigation, should include material in their books that address the investigation and prevention of agricultural crimes. These books are frequently used as references in police academies or as required textbooks in college courses, and as a result, provide a good opportunity for positive exposure to such offenses.
3) Police training institutions that offer specialized police seminars to a regional or nationwide law enforcement constituency should give consideration to adding courses that address the special problems of agricultural crime.
4) Regional and statewide sources of agricultural crime information should be developed. This information should be analyzed and disseminated to law enforcement agencies, especially if it appears that crime patterns are developing that may have some investigative or predictive use. Fluctuations in market conditions should also be monitored as a means of crime forecasting. For example, strong upward shifts in beef prices may signal the onset of a wave of rustling.

Conclusion

Our thinking suffers from a conceptual myopia that defines crime and the attending responses in terms of the urban setting. It is clear the agricultural enterprise is an important one, it is vulnerable, and great losses are being experienced. In addition, agricultural crime is not just a problem of rural agencies and State police or State investigative agencies. City dwellers provide some of the "brain power" that develops agri-crime, contribute to the labor pool which executes these plans, and operate some of the networks that dispose of whatever is stolen. Some of what can be done is being done, and despite our overall characterization of efforts as being disjointed, we have also illustrated a few of the programs about which we can feel good. However, in attention, thinking, and programs, we are still in our infancy. Sensitivity to the problem must be developed, researchers must have their interest aroused, studies must be undertaken, training conducted, and special programs implemented and evaluated. Many questions abound and need to be answered. How much of what types of agri-crime is there? How much agri-crime is reported? Are rural investigators actually gathering physical evidence? Which existing crime prevention efforts are most applicable and how do we diffuse them to the rural environment? What types of totally new crime prevention programs need to be developed? Can typologies of agri-crime offenses and offenders be developed? How sensitive are prosecutors to the problem? What appreciation do urban investigative agencies have with respect to their place in the network? What new patterns of interagency cooperation are most likely to have impact on the problem? And one last question: What are you going to do? **FBI**

The University of Georgia has submitted a grant application, a workplan that provides for a national study of agri-crime. For information contact C. R. Swanson, Institute of Government, University of Georgia, Athens, Ga. 30601.

Footnotes

[1] This percentage was computed from data contained in the FBI's *Crime in the United States—1978.* (Washington, D.C.: Government Printing Office, 1979), Table 14, p. 168.

[2] Susan Burnside, "It's Time to be Tough on Agricultural Theft," *The Miami (Florida) Herald,* October 21, 1979, p. 26.

[3] Personal letter of February 15, 1978, from Dennis E. Emmerson, Assistant to the President, Florida Farm Bureau Federation to Mr. Brent Hampton.

[4] Jim Fisher, "Crime in Agriculture," *The Citrus Industry,* vol. 58, No. 1, January 1978, p. 13.

[5] Cathy Sherman Machan, "The Mafia Nibbles Cheese," *Farm Journal,* September 1976, p. 29.

[6] South Dakota State Planning Agency grant No. 2-07-01-002, awarded January 1, 1974.

[7] Jerrold F. Footlick, Paul Brinkly-Rogers, and Chris Harper, "Crime on the Farm," *Newsweek,* October 3, 1977, p. 101.

[8] Ibid.

[9] Al Morrow, "Theft is Leading Crime in County," *Wallace's Farmer,* October 23, 1976, p. 30.

[10] John Russell, "Stamp Out Hog Rustling," *Hog,* September 1976, p. 27.

[11] Ibid.

[12] Robert P. Mathews, "Theft and Vandalism in Western Washington Forests," *Journal of Forestry,* vol. 68, No. 7, 1970, pp. 415–416.

[13] B. Drummond Ayres, Jr., "Tree Rustlers Ride the Plains," *New York Times,* November 10, 1971.

[14] Ibid.

[15] Personal letter and attachments of March 15, 1978, from William L. Rice to C. R. Swanson.

[16] Personal letter and attachments of February 16, 1978, from James C. Turner, Jr., to Bill Sigmon.

[17] *Farm Chemicals,* May 1970, p. 12.

[18] *Agri-News,* October 1975, p. 3.

[19] "Thieves Reap Crop of Tractors," *The Atlanta Journal and Constitution,* June 25, 1978, p. 208.

[20] John Green, "Gone in Four Minutes," *Implement and Tractor,* vol. 92, No. 14, June 21, 1977, p. 48.

[21] "Thieves Reap Crop of Tractors."

[22] Carole Ashkinzae, "Georgia ID Program Aims at Cutting Equipment Thefts," *The Atlanta Constitution,* July 7, 1978, p. A–1.

[23] Charlie Cape, "Equipment Theft—Who'll Be Hit Next," *Implement and Tractor,* vol. 90, No. 11, August 7, 1975, p. 8.

[24] Ibid.

[25] Bob Dunway, "Theft is a Big Problem on Farms," *Wallace's Farmer,* February 23, 1974, p. 80.

[26] *The New York Times,* January 2, 1977, p. F–15.

[27] Tina McElroy Ansa, "Black Farmers Face Struggle for Survival," *The Atlanta Constitution,* July 20, 1978, p. B–1.

[28] Russell, p. 27.

PHASE APPROACH TO TRAINING

By CAPT. DANIEL E. WOOD
Police Department
Greensboro, N.C.

"All types of enterprises have responded to the need for skilled personnel by investing in training and development programs. Too often these programs involve what might be called the 'shotgun' approach."[1] These observations by William Tracey are frequently applicable to police training programs. With the exception of basic recruit training programs, much of law enforcement training is haphazard at best. This is not to say that specific courses, seminars, or workshops lack quality. Indeed, most are very good. The problem is a lack of goals and objectives, a lack of coordination, for the overall training program. In short, there is not enough planning.

Planning is a basic function of a manager. In his role as administrator of training, planning is no less important to the training director. Robert L. Craig identifies planning as "the key to optimum use of training manpower and resources."[2] Planning answers the questions what, when, where, who, by whom, etc., and allows us to avoid the common mistake of "training for training's sake."

The importance of planning the training program has even greater dimensions for today's training director. A 1978 survey of members of the American Society for Training and Development revealed several significant findings in this respect. Among them were the expansion of training and development programs, and an increase in the time training directors devote to management and administrative matters.[3]

These findings are obviously applicable to law enforcement. During the last decade, the expansion of law enforcement training has been phenomenal. Added to this are the ever-increasing demands that are placed upon police officers, our concern for civil and vicarious liability, and the need for affirmative action.

Recognizing these factors, the Greensboro Police Department began the development of a framework for planning the training program. This led to a concept which was termed "phase approach to training." In essence, the department recognized that there are multiphases in the training and development of police officers and a standard training program for each of these phases was established.

Phase I—Recruit Training

New officers enter the department in a trainee status and are given 560 hours of recruit training in the police basic introductory course. Upon successful completion of this course, new employees are promoted to sworn status as police officer I's. As police officer I's they are assigned to a field training program under the supervision of a police squad leader, who serves as their training coach. When they have successfully completed the field training, the officers receive patrol duty assignments in one of the four field operations divisions.

Captain Wood

William E. Swing
Chief of Police

Phase II—Intermediate Training

Upon assignment as patrol officers, police officer I's enter the second phase of their training and development. During this period of approximately 1½ years, the officer's training will consist primarily of on-the-job training within his assigned field division. This is supplemented with quarterly inservice training, consisting of 8-hour sessions based on the training needs of the department. In addition, shorter 2-hour sessions are presented monthly during a rollcall training session.

Phase III—Advanced Training

After 2 years on the job, an officer is eligible for promotion to police officer II. This is accomplished by passing a written competency test comprised of questions concerning knowledge gained by the officer during phases I and II of his development.

In phase III, officers continue to receive quarterly inservice and monthly rollcall training. In addition, they receive advanced training through periodic seminars and workshops presented within the department or through a local community college. Since this training is developmental as well as performance orientated, our objective is to have as many officers as possible receive this type of training. Accordingly, assignments are made on the basis of seniority and are rotated so that each officer attends one seminar or workshop before a senior officer is assigned to a second one.

Phase IV—Developmental Training

Police officer II's are eligible to participate in two developmental programs recently established by the department—the career development program and the police squad leader program. Officers participating in the career development program receive a short-term (6 to 8 months) temporary assignment to one of the investigative or staff divisions. During this assignment the officer receives approximately 30 days of orientation within his selected area, followed by supervised on-the-job training. He also attends seminars and workshops related to the specialty area. Both the Guilford Technical Institute and North Carolina Justice Academy offer the desired training in this area at little or no cost to the department.

Officers in the police squad leader program go through an established selection procedure and are promoted to police squad leader status. This promotion adds two important dimensions to the officer's responsibilities—he periodically serves as training coach for newly assigned officers, and when so designated, acts as the squad supervisor in the absence of the regularly assigned supervisor. These added job dimensions necessitate additional training for the officer, including officer coach training, instructor training, and introduction to supervision.

Participation in the police squad leader program is not a prerequisite for promotion to sergeant, and not all officers choose to participate. Many of the officers who do participate choose to withdraw after a period of time to accept assignments in other areas or to participate in the career development program. This is encouraged by both the low pay differential (5 percent) for a police squad leader and the desirability of other assignments. Participation in the program offers the officer an excellent opportunity to develop his supervisory skills.

Phase V—Specialist Training

Officers assigned to specialized units, such as criminal investigation, vice/narcotics, youth, traffic, or training, are provided seminars and workshops to develop their expertise in these areas. Primarily, external resources offering the needed training are used for these activities. These resources include the Northwestern University Traffic Institute, Southern Police Institute, FBI National Academy, and others. Refresher or advanced training in these areas may also be provided depending upon the length of the officer's assignment, job performance, new developments in the specialized areas, or other factors. When applicable, officers in specialized assignments will also be assigned to quarterly inservice training sessions.

Phase V also encompasses officers who participate as members of special teams, such as special response team, underwater recovery, or the bomb squad. Instructors used at the academy also fall within the realm of the specialist training phase and are provided any additional training required for this function.

Phase VI—Supervisory Training

Officers promoted to sergeant enter into the supervisory training phase. As soon as possible, all newly promoted sergeants are scheduled for a practical supervisors' course. In addition they attend an inhouse supervisory orientation program to familiarize them with specific departmental policies, programs, and procedures.

Following 1 year in a probationary status, sergeants are eligible for assignment to a basic administration course. At the present time, the department uses two primary sources for this training—the Institute of Government in Chapel Hill, N.C., and The North Carolina Governor's Highway Safety Program. Both offer a management/administration course consisting of approximately 200 hours of instruction.

Phase VII—Management Training

Promotion to lieutenant marks the next phase of an officer's development. At this level, the officer functions primarily in a management capacity, and newly promoted lieutenants are scheduled for training in this area. Their initial training consists of either a 3-month police administration course at the University of Louisville Southern Police Institute or the 9-month traffic police administration training program offered by Northwestern University Traffic Institute. After attaining the rank of captain, one is eligible to apply to the FBI National Academy for continued management training.

Officers discuss career development opportunities.

In addition to these major programs, officers who are lieutenants, captains, or majors may participate in a variety of seminars, workshops, and retraining conferences to keep them abreast of changes and new developments in the field of law enforcement.

Using the aforementioned framework allows us to anticipate the bulk of our training needs and plan accordingly; yet, there is flexibility. Specific programs in any phase can be changed to meet the changing needs of the department—entire phases can be deleted or others added. The concept is not intended as a rigid structure to be religiously followed; instead, it is a tool to be used in the planning process.

Using the phase approach to training concept provides a number of benefits to the department. First, it helps insure that officers have the skills and knowledge to perform at each level of their development in the department. Second, the concept insures that the officers continue career development on a timely basis. Third, officers know what they can expect from the department in the area of training and development—this can be very beneficial to officers' morale. Fourth, it provides for a fair and equitable system in which every officer receives approximately the same level of training. In addition to being a positive morale factor, this is also beneficial in administering the department's affirmative action plan. Fifth, the phase approach to training aids in the coordination and planning of the department's overall training program and helps to avoid many of the common pitfalls in administering the program.

FBI

Footnotes

[1] William R. Tracey, *Designing Training and Development Systems* (American Management Association, Inc., 1971), p. 7.

[2] Robert L. Craig, *Training and Development Handbook* (New York: McGraw-Hill, 1976), pp. 2–14.

[3] Donald Clement, Patrick Pinto, and James W. Walker, "Changing Demands on the Training Professional," *Training and Development Journal*, vol. 33, No. 3, March 1979, p. 7.

The U.S. Park Police Horse Mounted Unit

The U.S. Park Police Horse Mounted Unit is one of the oldest established police equestrian units in the United States. Established in 1934 with one horse that was rented from a local stable, the unit has grown to over 50 specially selected and trained horses and riders.

Initially, the unit patrolled the streets and wooded areas of the Nation's Capital. However, as the value of the mounted unit was proven, it was expanded to provide protection to other Federal parklands in the United States. With field offices in Washington, D.C., the Gateway National Recreation Area in New York, and the Golden Gate National Recreation Area in San Francisco, the U.S. Park Police Horse Mounted Unit provides law enforcement services to millions of visitors annually.

The first use of horses by the Park Police followed the general trial and error methods that prevailed throughout much of police work in those days. Rock Creek Park, a 1,900-acre tract of heavily wooded terrain lying in the heart of Washington, D.C., is interspersed with equestrian trails that require special policing methods for which the horse is ideally suited. Other park areas with open spaces, picnic areas, ball and play fields, and other activities were soon found to be places where horses could patrol more effectively than footmen or motorized vehicles; stables were erected and new horse mounted beats were established.

The Nation's Capital hosts many civic functions each year. Some of them are local affairs; others have a national and international character, such as the National Cherry Blossom Festival, the President's Cup Regatta, the Christmas Pageant of Peace, and the Presidential inauguration. During the 1960's and 1970's, the horses, in addition to being an attractive unit for display in parades, were found to be highly effective in crowd and traffic management at these functions. The horses had to be properly trained and conditioned to maneuver in crowds of people and through heavily traveled roadways so as not to endanger the public, themselves, or their riders.

In the 1960's, the era of demonstrations emerged in Washington, D.C. Citizens have a constitutional right to petition their government for redress of grievances, and the institutions of government became targets for political demonstrators. While most of the demonstrations were of a peaceful nature, the movement of crowds numbering upwards to a quarter-million people placed new demands on both horse and rider. In the early 1970's, a new dimension arose out of the demonstrations—large-scale violence. Wanton destruction of property and attacks on other persons with opposing viewpoints became the rule rather than the exception. Officers and their horses were put to new tests. After each demonstration, critiques were held, new methods of training were developed, new equipment was evaluated, and new ways of managing and dispersing crowds were developed.

By being actively engaged in virtually all of the major demonstrations in the Washington Metropolitan area, the U.S. Park Police Horse Mounted Unit has gained valuable knowledge and expertise in managing crowds and quelling disturbances with little or no serious injuries to the demonstrator, spectator, horse, or rider.

A crowd control exercise for horse and rider.

With lights flashing and sirens blaring, the horses are maneuvered between patrol cars to familiarize them with motorized vehicles.

Chief Parker T. Hill
U.S. Park Police

Evaluation of Horse Mounted Needs

In these days of modern police techniques and equipment, the officer and his horse have proven to be a highly visible crime deterrent. A well-trained rider on a well-trained mount can perform almost any task required of a motorized or foot patrol officer. In addition, the horse mounted policeman can cover more area, be seen from greater distances, and see over obstacles because of the height advantage. A horse mounted officer can truly be a great asset to the policing operation of a community.

However, with the tightening of police budgets, it is important to determine if there is a need for establishing a mounted unit. Things to be considered are the type of areas to be patrolled, the location of the area and its primary use, and the activities it serves.

Another area of consideration is the cost of horse, equipment, and care. An approximate annual operating expense per horse for the unit is $1,000. This includes an initial prorated cost of the horse, tack, grain, hay and bedding, blacksmith and veterinarian fees, but the total figures can be influenced by many variables. One controllable variable is the manner in which the horse is stabled. Standing stalls cost less to equip, build, and maintain than box stalls. Also, a horse in a box stall unnecessarily spoils more bedding than one in a standing stall. Although an idle horse receives more exercise in a box stall, as a police mount, one stabled in a standing stall will receive adequate exercise on the beat. Thrown shoes, illness, and price and quantity of feed are somewhat uncontrollable, but a well-planned stable management program keeps these and other variables to a minimum.

To the horse, these hanging strips of plastic appear as a solid wall. For the horse to move between these strips, complete confidence must be developed between the horse and rider.

Selection of the Horse

The patrol horse should be a minimum of 15–3 hands, preferably 16 hands or taller, and weigh from 1,000 to 1,250 pounds. This height is important because a tall officer presents a poor appearance on a small horse, and a mount of this size enables the officer to better observe a large parking lot or large crowds. The officer can also be seen more easily, which serves as a deterrent to would-be criminal violators.

Conformation is the most critical consideration in selecting a police mount. Soundness in a horse is extremely important, since the efficiency of performance is dependent upon his ability to move. Any abnormal deviation in the structure or function of a horse may contribute to unsatisfactory performance. Horses with faulty conformation are always subject to being unsound and should not be selected. Blemishes, such as unsightly scars, rope burns, brands, etc., should be looked for, but usually do not interfere with the service ability of a horse.

The type of horse to be used is dependent on the nature of the area where it will be ridden. A horse should be well-balanced (one that is light and smooth in his gaits and agile in his changes of direction), muscular, long-legged, have good stamina, have good carriage and a straight well-muscled back, and good feet. This provides for a well-rounded police mount.

Since the average life span of a horse is about 20 to 25 years, the average service for police work should be 10 to 15 years, depending on the horse's conditioning at early age. Horses should be selected between the ages of 3 to 7 years. This provides for maximum use of the horse during his prime years. Exceptions may be made on this age range, provided the horse is above average in conformation and conditioning. The age can be estimated by a veterinarian or an experienced horseman by examining the front teeth.

The color of the horse varies with the individual police unit and has no effect on its use. It is best to determine a single color to provide uniformity in the appearance of the unit; however, where quality is concerned, color should be a secondary factor.

Police horses must be gentle and free of vicious habits, such as biting, kicking, or striking with front feet. They must not object to saddling or grooming, nor should they balk, rear, shy, or be hard to catch when turned out. They should be quiet and must not object to being rubbed or petted. The police

Part of the basic training is to accustom the horse to flashing lights, sirens, and gun fire.

Smoke bombs and tear gas are used during training. In actual gas conditions, the officer wears a mask (horses are not sensitive to tear gas).

Cost of Horse Equipment & Care

Average years of usefulness	15 years
Initial cost (average @ 3-5 yrs.)	$900.00
Tack for 15 years	$450.00*
Initial cost (horse) prorated 1 year	$60.00
Tack prorated 1 year	$30.00
Grain, hay and bedding @ $2.04 per day	$744.60
Blacksmith fees, $25 every 8 wks.	$175.00
Veterinarian fees (average)	$44.00
Total per year per horse	$1,053.60**

* Includes 'Steuben' saddle, stirrup irons and leathers, girth, breastplate, saddle pad, and bridle. Note: The supplier claims that the useful life of the 'Steuben' saddle is 20 years.

** Because the cost is minimal, grooming supplies are excluded.

mount with a good disposition will be a great asset to any unit in the field of public relations. Horses with stable vices, such as cribbing, halter pulling, tail rubbing, weaving, bolting, etc., must be carefully evaluated because these habits may lead to more serious problems. The way a horse hauls in a van or trailer should also be considered when selecting a horse.

Through many years of experience, it has been found that the gender of the police mount reflects upon its performance. Gelded horses are used primarily because of their use around other horses and the frequency of special details where horses are side by side for long periods of time. Mares and stallions are rarely selected.

Horses should be at least green broke under saddle and bridle. This affords a better opportunity to evaluate the horse when the initial contact is made. Advanced schooling is desirable, provided this schooling is not for the show ring where extreme gaits are

During training, the horse must be exposed to any condition it will experience on the beat, such as flying balloons or walking through tunnels.

evident. This causes problems when training for police maneuvers or crowd control, in that many times it is necessary to detrain before retraining.

It is important that a trial period be given each horse before the purchase arrangement is consummated. A contract stipulating a 30-day trial period should be required. This trial period enables the unit to evaluate the nature and potential of the horse and expose him to the various elements that are likely to affect him as a police mount. All horses should be certified as sound by a veterinarian before being accepted. If the horse is donated to a mounted unit, he should be carefully scrutinized before being accepted. A training instructor should examine the horse beforehand to see if it is suitable for the unit and if it can be trained.

Training the Horse

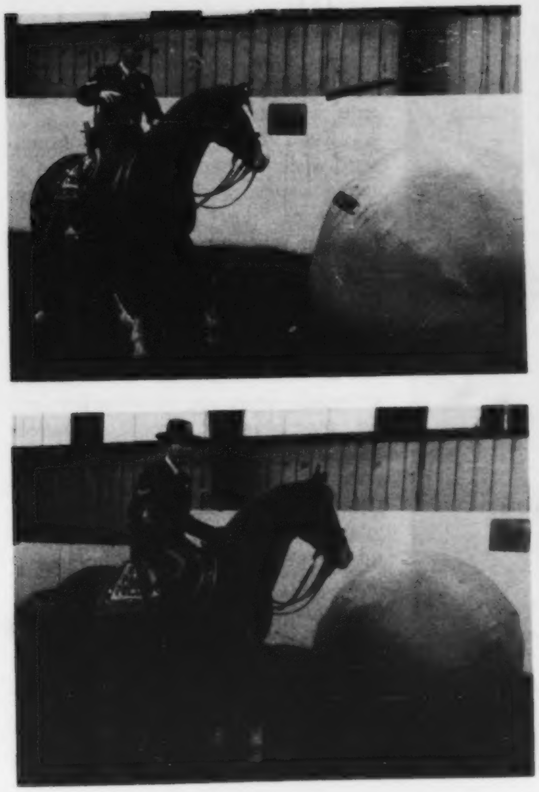
The trained horse is one that understands the rider's intentions from the slightest indications and immediately responds to them with lightness and exactness. He must be sensitive to the rider's leg and lightness of hand. Complete confidence and trust must be established between the horse and its rider.

The horse's mental as well as physical aptitude must be taken into account during the training process. His memory is the controlling factor in his aptitude for training. He remembers or recognizes the indications given him by the reward or punishment he receives to a particular response. The trainer must develop confidence and lack of apprehension in the horse throughout the training period.

A retraining program must be established in order to evaluate periodically the horse's needs and refresh his schooling. This enables the trainer to compare the effectiveness of prior training and govern any future training accordingly. All horses are in need of training several minutes each day to keep them agile and to assure the officer that his horse will respond properly when he has to be used in potentially tense crowd management maneuvers.

Selection of Mounted Patrol Personnel

A minimum of 3 years' patrol experience is recommended so that the officer-rider will have basic law enforcement experience prior to being assigned to the horse mounted unit. It is preferred that applicants have prior experience working with horses; however, this is not a prerequisite. Applicants should be selected on their past performance, experience, health, attitude, and basic knowledge of horses.



Sgt. Denis Ayres, instructor, trains a new mount not to react to large moving objects.

A well-trained horse and officer will hold formation against moving objects.

This will include parts of the horse, bone structure, and the parts of the bridle and saddle. By demonstrating a basic knowledge of horsemanship, an applicant shows that he has a keen interest in the assignment.

Training Patrol Personnel

The student should be trained to a level of proficiency where he will be capable of properly handling his mount in any given situation. He must possess equestrian knowledge greater than that of the average rider.

The student should be trained in stable management, grooming, first aid, ability to recognize illnesses, feed rationing, and other duties associated with the care of horses. He should be aware of the need to contact a veterinarian when the horse becomes sick or injured.

Female officers of the U.S. Park Police Horse Mounted Unit.

The student should be trained to ride at a walk, trot, canter, side step, pass, and back with a saddle and on bareback. Aside from the basic gaits, the student should be able to take his horse over jumps and obstacles.

Park Police Mounted Unit Training

Horses of the Park Police mounted unit receive 480 hours of training from experienced instructors before they are assigned to a rider. During this training period, the horse is exposed to any possible condition he will encounter on the beat, ranging from exploding firecrackers and sounds of gunshots and sirens to walking across bridges or through tunnels.

Officers assigned to the unit receive 400 hours of intensive training—10 hours a day, 5 days a week for 8 weeks. This training includes both classroom instruction and riding experience. Because of this demanding and strenuous training, students must be in good physical condition. This is the main reason that not all students make it through the training period.

Students will ride different horses during their 8 weeks of training. However, once the student completes the course and is assigned to an area, the officer is teamed with a particular mount.

Training classes are usually held once a year and have 12 to 15 students in attendance, including officers from other police mounted units. Instructors at the U.S. Park Police training stables have trained officers from police departments all over the United States. In addition, inservice training classes are held throughout the year. Each rider and horse of the U.S. Park Police must complete 40 hours of inservice training each year.

The greatest asset of a horse mounted unit is in the field of public relations. Seldom is a mounted officer seen standing alone. Whether in the midst of a crowd of children or adults, he is the center of attention. His mere presence produces a smile and a feeling of warmth. A philosopher once said, "There's something about the outside of a horse that warms the inside of a man."

Even during times of confrontation, when horses are being used to move unruly crowds, you can hear shouts of "don't hurt the horse." It happens many times that those same demonstrators who were hurling rocks, bottles, sticks, etc., can later be seen patting the horse.

Horses are indeed a valuable asset to modern-day law enforcement, especially when you consider they are an alternative to motorized patrols when today's focus is on energy conservation. However, one must be ever mindful that selection and training are vital ingredients to a successful mounted operation. A well-trained horse and rider is an asset . . . a poorly trained horse and rider is a liability.

FBI

MOTIVATIONS OF CRIMINAL INFORMANTS

By JAMES T. REESE
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The use of informants is not new to law enforcement or to society in general. The recorded history of informants spans the time from Judas in the New Testament to the present day, and their uses are as vast as the entire area of responsibility for law enforcement. Informants may fall into many categories: Known, confidential, specialized, general, one-time, permanent, paid, unpaid, and others. This article, however, does not center on the types or uses of the informant, but discusses the psychological motivations of an individual who provides information to law enforcement authorities. These motivations will generally apply to all types of informants, including the concerned citizen, witness, and criminal. Emphasis will be placed on cautions concerning the psychopathic criminal as an informant.

The Foundation for Information

Gregariousness, while not being an instinct of the human species, is obviously one of our common traits.[1] People form groups, much like animals form herds, perhaps not so much for safety any more but for psychological comfort. It may be fair to say that this gregariousness provides the nucleus for informant potential. If human beings were loners by nature, the task of law enforcement would be inconceivably difficult.

These affiliations among people are based on a variety of similarities and needs, among which are values, personalities, goals, activities, income, and others. Their gregariousness is the cornerstone by which societies are built, and "by its very nature, society not only provides for the needs of its members but also controls its behavior as well." [2] A large part of this control today apparently stems from law enforcement's role in society and is enhanced by its proper use of informants.

The informer has been defined as "a person who informs or prefers an accusation against another, whom he suspects of the violation of some penal statute." [3] This definition is altered somewhat by the labels placed on the informers by the criminal world. Among these labels (or titles) are "snitch," "squealer," "rat," "fink," "stool pigeon," and "scab," to name but a few. Unfortunately these titles, originated by the criminal world about whom the informant has provided information, are used frequently by law enforcement officers when referring to their own sources of information and by society in general. It is fair to say that many officers look at the informant as a "snitch" but accept them due to their value in the solution of crime. The *Anchorage Daily Times* summed it up in 1974 with the title to an article, "Police See Informants as Necessary Evil." [4] Still other headlines that lend credence to the value of informants in a more dignified manner are "Police Departments Would Be Lost Without Informants," [5] and "Police Informers Play Leading Roles." [6] Needless to say, law enforcement and the solutions of crimes, in general, would suffer drastically if informants were to stop providing information. The law enforcement profession would be wise to look at its use of these slang titles as self-defeating behavior.

Brief History

The late J. Edgar Hoover, former Director of the Federal Bureau of Investigation, said that furnishing information was "one of the citizens' obligations." [7] In the early histories of England and America, this obligation was referred to as the "Hue and Cry." Historically, police officers basically functioned as watchmen; it was not necessarily the officer's responsibility to catch criminals. He was, however, expected to "give Hue and Cry" so that the criminals could be apprehended by other citizens in the general vicinity. [8] Quite the opposite role has evolved since that time, and more and more frequently, police are being challenged to solve more crimes and make more arrests.

During the period of hue and cry in England there existed the common law misprision of felony. Failure to inform, especially when witness to a felony, was punishable by fine and/or imprisonment. It is questionable whether this offense ever had any meaningful existence beyond textbook writers. The offense was practically obsolete in England over a century ago.

Today, most States and the Federal Government have some type of misprision statute. Our modern statutes are found to require active concealment, not just a failure to report, and this seems to have been the reality at common law also. Even though citizens have technical, legal obligations to report crime and furnish information, these legal obligations are, in reality, unenforceable or at least unenforced. Thus, "the informant in America serves of his own free will." [9] Keeping in mind this fact of voluntariness, what causes an individual to inform when another is involved in criminality?

It is becoming more and more important in present-day policing to be able to readily identify informants, and thereafter, understand their motivations for providing information in order to further develop them as sources. There was a time in our history when, due to the absence of court rulings, the police officer had fewer legal guidelines, and thus, more latitude in his interpretation of constitutional restraints. He was able to ask questions whenever he felt it was necessary, to stop indiscriminately suspicious individuals or vehicles, check the background or records of certain persons suspected of criminal activity, and conduct many other types of activities which he felt would be helpful in either identifying a criminal or in preventing a crime. This type of police activity was referred to by James Q. Wilson as aggressive police practice. Wilson defined it as "gathering more information about people who may be about to commit, or recently have committed, a crime. Because he (the police officer) cannot, except by due process of law, put people in private places under surveillance . . . he must gather the information in public places by stopping and questioning 'suspicious' persons, checking cars, searching people and vehicles for contraband, and keeping an eye on those locales—street corners or taverns in rowdy neighborhoods, for example—where criminal acts often occur." [10]

Courts have begun to inquire into law enforcement practices with more regularity, resulting in more restrictions on officers' conduct, particularly with regard to collecting and using evidence. The decisions of the U.S. Supreme Court and State courts for the past 20 years have been limiting this aggressive policing. A recent case, for example, is that handed down by the U.S. Supreme Court on March 27, 1979, the case of *Delaware* v. *Prouse,* in which case the Court ruled that "random car stops require articulable suspicions." [11] Developments such as these in criminal law which restrict information gathering have made it even more important for the police officer to understand the motivating factors involved in the decision to inform.

Informant Motivation

Motivation has been defined as an "internal condition which directs actions towards some goal: . . . usually used to include both the drive and the goal to which it is directed." [12] These impelling forces, or motivations, directing human behavior are many and vary widely from one individual to another. The psychological motives that encourage individuals to inform on others fall within this multitude of forces. It is fair to expect the law enforcement officer will observe a few selected motivational factors, such as fear, revenge, and personal gain, more than others. Familiarity with motivational factors will allow the officer to better direct his questioning of the informant and provide a more enlightened "on-the-spot" judgment concerning the potential credibility of the information provided.

Some informants' motivating factors, delineated by Charles E. O'Hara in his book *Fundamentals of Criminal Investigation,* [13] are:

Fear—concern for one's own safety or the safety of his family.

Vanity—attempts to be looked upon favorably by police authorities.

Revenge—an effort to "get even" with another due to the other's previous informing or a mere dispute.

Repentance—rectifying a wrong due to a guilty conscience.

Jealousy—efforts to humiliate one with greater accomplishments or possessions.

Remuneration—informing for monetary reasons or other material gain.

Avoidance of Punishment—person caught in a criminal act informs on crime to avoid punishment.

Civic Mindedness—efforts to rid the community of crime.

Gratitude or Gain—efforts to express appreciation or earn favor.

Competition—desires to eliminate criminal competition.

John J. Horgan, the author of *Criminal Investigation,* adds still other motivating factors to this list. Among them are informing due to a dislike for a confederate, providing information regarding certain crimes of which he disapproves, and egoism or making himself look and feel important to the police, [14] similar to that factor which O'Hara referred to as vanity. Integrated within these motivations may be found the detective complex [15] and attempts by individuals to ingratiate themselves with the authorities. [16] It is noted that many of these same motivations are experienced by suspects being questioned about a crime and subjects providing confessions.

Criminal Informant Potential

Who are criminal informants? Criminal informants can be anyone, in that no category of individual or occupation is exempted. Obviously, the best individual from whom to receive information relative to a crime is the criminal himself. In lieu of this luxury, it is necessary for the officer to obtain information from others, information provided for one or more of the previously described motivational reasons. An accomplice may provide the necessary information, or it may be learned from individuals merely in a position to know, hear of, or observe criminal behavior, such as cab drivers, bartenders, doormen, security personnel, and others.[17] It seems fair to assume that one person who is most familiar with the criminal mind is another criminal. It has been stated that "invariably, good informants are involved with criminal activities." [18]

The Psychopath as an Informant

Some studies, discussed later, suggest that a large portion of the criminal population is made up of a certain personality type. These studies refer to the criminal as sociopaths, antisocial personalities, and psychopaths. All of these terms share basically the same meaning. For our purposes such an individual will be referred to as the psychopath. It is noted that the American Psychiatric Association uses the term "antisocial personality" to classify the sociopath/psychopath and refers to them as:

> "[I]ndividuals who are basically unsocialized and whose behavior pattern brings them repeatedly into conflict with society. They are incapable of significant loyalty to individuals, groups, or social values. They are grossly selfish, callous, irresponsible, impulsive, and unable to feel guilt or to learn from experience and punishment. Frustration tolerance is low. They tend to blame others or offer plausible rationalizations for their behavior. A mere history of repeated legal or social offenses is not sufficient to justify this diagnosis." [19]

Criminologist Ernest van den Haag, among others, cautions that a history of offenses does not place an individual in the category of psychopathic. He states, "Most offenders are not psychopaths, but some are." [20] While there are writers such as van den Haag who state that the psychopath is not the most common offender, there are studies which oppose that particular viewpoint.

A study of the inmates of Sing Sing Prison in 1963 by J. Gaetaniello, Chief of Psychiatric Services, Sing Sing Prison, Ossining, N.Y., revealed that 35 percent, the largest percentage of any one category exposed by the study, were of the antisocial type.[21] Another study, this one of repeat offenders by Dr. John Holbrook, Chief Psychiatrist, and Mr. Eric J. Holden, Psychological Counselor, both of the Texas Department of Corrections, also concludes that the psychopathic-type personality makes up the majority of criminal types. In this study they reported that "though the sociopath comprises 40 percent of the criminal population, he is responsible for 80 percent to 90 percent of all crime." [22]

These percentages of psychopathic criminals are presented to expose the officer to the fact that there is a great possibility the officer will contact the psychopath as an informant on occasion. The studies are in no way intended to suggest the psychopath as the only, or best, criminal informant, and it must be stressed that since the officer's job is not that of a diagnostician, he need not label the informant as one type of personality or another. He should, however, be aware of the characteristics of the psychopath, so that he will be alert to an informant who possesses any or all such characteristics and handle him accordingly.

Even those who disagree that the psychopath is responsible for a preponderance of crime provide certain insight into the handling of this type of person. William and Joan McCord in their book, *Origins of Crime,* tell us the following: "It is the psychopath who commits the whole gamut of crimes. He feels little, if any, guilt and cannot form close relationships with other people." [23] Ernest van den Haag advises: "Psychopaths, by definition, differ from ordinary people in that they do not experience guilt feelings. They find it psychologically easier to commit crimes." [24] Therefore, whether or not the psychopath makes up the majority of the criminal population, the police officer should use extreme discretion and care when using him as an informant.

It is generally accepted among psychologists that one of the psychopath's largest problems is his lack of guilt feelings. John Coleman refers to this as an "inadequate conscience development and lack of anxiety or guilt." [25] Sigmund Freud separated the human personality into three component parts—the id, the ego, and the superego. Accordingly, the psychopath is said, by Freudians, to have a poorly developed superego or conscience. As a consequence, the id (that part of the personality which seeks pleasure without regard for the consequences) dominates the individual's personality. The ego (that portion of a personality which mediates between the id and the superego, also referred to as the self) has no superego or conscience with which to mediate, thus the id predominates.

Hervey Cleckley, in *The Mask of Sanity,* lists 16 characteristics or traits of the psychopath. The officer should keep in mind the possible use of this type of individual as a criminal informant and interpret these characteristics accordingly, evaluating the effect each characteristic will have on the way the informant is handled and the purpose and usefulness of the information provided by him. These characteristics are:

1) Superficial charm and good "intelligence,"
2) Absence of delusions and other signs of irrational thinking,
3) Absence of "nervousness" or psychoneurotic manifestations,
4) Unreliability,
5) Untruthfulness and insincerity,
6) Lack of remorse or shame,
7) Inadequately motivated antisocial behavior,
8) Poor judgment and failure to learn by experience,
9) Pathologic egocentricity and incapacity for love,
10) General poverty in major affective reactions,

11) Specific loss of insight,
12) Unresponsiveness in general interpersonal relations,
13) Fantastic and uninviting behavior with drink and sometimes without,
14) Suicide rarely carried out,
15) Sex life impersonal, trivial, and poorly integrated, and
16) Failure to follow any life plan.[26]

Some Cautions Concerning Psychopathy

Of what significance or assistance are all of these motivational factors and psychopathic characteristics to the investigator? The psychopath possesses both good and bad informant qualities. His egocentricity, or vanity, may cause him to talk excessively about "how much he knows." This same egocentricity will cause him to try to look like a big man (big in importance) to the police and thus fabricate facts concerning a case. This trait may be coupled with his lack of loyalty to anyone. He has not formed any close, meaningful relationships with anyone, particularly with criminal confederates, and therefore will speak freely of their activities.

His gregariousness is limited to a parasitic existence. His egocentricity causes him to need people around him, to be an extrovert. He will use, con, and manipulate people in accordance with his purposes and goals. An officer should not let the diagnostic term "antisocial" be misleading or confusing concerning the psychopath's need for people.

His basic good intelligence and amiability may make him extremely convincing. The officer must be aware that the psychopath is a good liar and is unreliable. While providing false information, he will show no nervousness or other signs of discomfort so frequently witnessed by police during an interview. The use of the polygraph to determine the truthfulness of his story has proven unsuccessful time and time again. The determination most often obtained using a polygraph is one of "inconclusive."

Generally speaking, the investigator is now armed with information concerning informant targeting, development, usage, and interviewing. Numerous motivations for informing were defined, which should prove helpful when attempting to collect information. Caution should be taken, however, when interviewing someone whose behavior resembles that of the psychopath. This caution should take the form of being a good listener, not being gullible, and being willing to verify every bit of information obtained through active investigation. Once again, the officer should continually remind himself that the psychopath is a manipulator, a con artist, and a liar.

Following his arrest, the motivations of an apparent psychopath will differ somewhat from those of the average person. His providing information may be due to his envy of those not arrested (accomplices), his attempts to eliminate criminal competition, but foremost, his efforts to avoid punishment. He will feign repentance for his acts and may plead for probation, stating that he has "learned his lesson." We now know better. The psychopath does not learn from his mistakes or from punishment. Recidivism is high in this category of personality. If he is given probation, it is very likely that his criminal activities will continue, and due to his cunning ways and manipulation, may become an officer's favorite probationer. Many authorities agree that the only way to stop his criminal behavior is to incarcerate him. They contend that incapacitation is the answer to his recidivism.

A last reason the psychopathic type may provide information is to turn the focus of an investigation away from himself, a motivation witnessed by this writer on several occasions. On one occasion, the entire thrust of a bank robbery investigation was shifted in the wrong direction due to information provided by an informant. The information was simple, logical, and extremely believable. It was given with a certain note of sincerity. A short time later, this informant was arrested and convicted for the crime about which he had provided information. The informer's motivation was to prevent, or at least delay, the authorities from focusing on him as the subject of the crime. Proper interpretation of the information, using the motivational factors listed and the informant's own personality traits, made even the false information useful. Needless to say, many man-hours were expended in attempting to verify or corroborate information. The lack of adequate corroboration was one of the keys to his eventual arrest. This case provided a good example of using the information provided, be it true or false, to the investigator's advantage.

Another case pitted one brother against another in a criminal matter. Whether psychopathic or not, there appeared a lack of loyalty between the brothers. In this case, one brother testified against the other, resulting in a conviction. Obviously, the testimony provided by the informant brother was for the purpose of avoiding punishment through amnesty for his testimony. His lack of warm interpersonal relationships was the characteristic that encouraged law enforcement officers to approach him concerning informing on his brother. This is a perfect incident in which the officer was not pretending to be a diagnostician but rather was identifying certain personality traits which gave him clues as to the proper approach for information.

After reading the above examples one may ask, "Is this type of individual (one who appears to possess the traits of a psychopath) a good criminal informant?" "Should he be targeted and developed as an informant"? The answer is yes; however, this answer must be qualified. He is a good informant so long as the officer is aware of the characteristics of his personality and his motivations for informing. Nothing he says can be taken at "face value" but must be corroborated by active investigation. In a good and thorough investigation, even false information, if examined carefully, can become valuable and steer the officer in the proper direction.

When dealing with a psychopathic-type person, never forget his lack of guilt or remorse. This absence of conscience can make him a very callous, dangerous person. History gives us good examples of the psychopath's cunning and dangerousness. John Coleman, author of *Abnormal Psychology and Modern Life,* tells of Reichmarshall Hermann Goering who "admitted that he (Goering) had no conscience; his conscience was Adolph Hitler." [27] Coleman also tells of the "Great Imposter," Fernando Walter Demaro, Jr., who, without any credentials of his own, was able to become dean of philosophy at a small Canadian college, gain a commission in the Royal Canadian Navy, and serve as a ship's doctor.[28] More recently, Edmund Kemper stands out as an excellent example of the dangers involved. At the age of 15 he shot his grandmother and grandfather in cold blood. He was hospitalized for mental treatment and eventually released. Following his release he killed eight others, which included decapitating his own mother.[29]

"Thou Shalt Not Kill," a special report for television by the National Broadcasting Company, focuses on an interview of two persons on "death-row," Myron Lance and Walter Kelbach.[30] Prior to this interview, Lance and Kelbach had been imprisoned in Utah and released. Following their initial release from prison, they murdered numerous people for no apparent reason. These two men talk about the murders freely and without remorse.

On occasion, they grin and laugh about the murders and admit that they have no remorse concerning them. Kelbach states at one point, in substance, that they (the victims) were going to die anyway and they (Lance and Kelbach) were merely speeding it up a little. Kelbach adds a final, chilling note saying that it wouldn't bother him if someone were to have a heart attack right in front of him. His preference, though, would be for one to have a heart attack, crawl, and almost make it to a phone to call for help and then "keel over" and die.

These men speak openly of their crimes. The egocentricity is obvious by their statements and how they describe the murders. It is important to point out that this interview for television was conducted prior to the U.S. Supreme Court decision that invalidated the death penalty in most jurisdictions. This also serves as an excellent example demonstrating the psychopath's egocentricity. Lance and Kelbach, facing the death penalty, chose to talk about their crimes before what may be the largest audience possible, television viewers.

Conclusion

These motivational factors should not only help the officer determine why an individual is providing information but allow the officer to help motivate those in a position to inform (not only those appearing psychopathic) by suggesting a few reasons why he should give information. When dealing with the informant it should be remembered that if the informant is in fact a criminal, he knows as much about interrogation as you do, be honest—don't trick or bluff him. [31]

Informants are a necessary and integral part of the criminal justice system in America. Some individuals continue to provide information on a voluntary basis regarding criminal activities, regardless of public scorn and condemnation. Others, those involved in criminality, do so for some sort of personal gain. The law enforcement officer should realize the importance and usefulness of the informant in the solution of crimes and not adopt the public's and the criminal world's prejudices against him. The informant's motivations discussed herein can be of assistance in using an informant to a maximum potential. There will be many cases where an informant is good on a "one time" basis. Even this situation requires that the officer use his knowledge concerning the informant's reason for providing information and thereby gain all the useful information in his possession. **FBI**

Footnotes

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[6] Bobby Isaac, "Police Informers Play Leading Roles," *News and Courier,* Charleston, S.C., October 10, 1975.

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[21] Coleman, 4th ed., p. 396.

[22] Planning and Research Section, Dallas, Tex., Police Dept., "The Dallas Repeat Offender Study," January 1973.

[23] William McCord, and Joan McCord, *Origins of Crime* (Montclair, N.J.: Patterson Smith, 1969), p. 198.

[24] Van den Haag, p. 81.

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[26] Hervey Cleckley, *The Mask of Sanity,* 5th ed. (St. Louis, Mo.: The C. V. Mosby Co., 1976), pp. 337–338.

[27] Coleman, 5th ed., p. 375.

[28] *Ibid.,* p. 376.

[29] Statements made to officials in the State of California by Edmund Emil Kemper, III, reported by *Newsweek,* June 4, 1973.

[30] National Broadcasting Company (NBC), "Thou Shalt Not Kill," a special television report.

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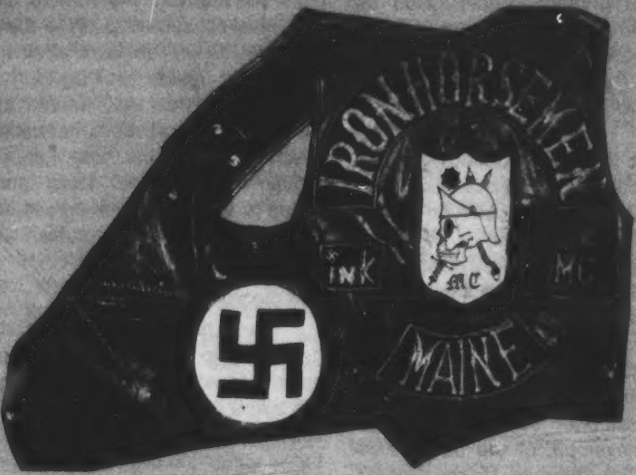
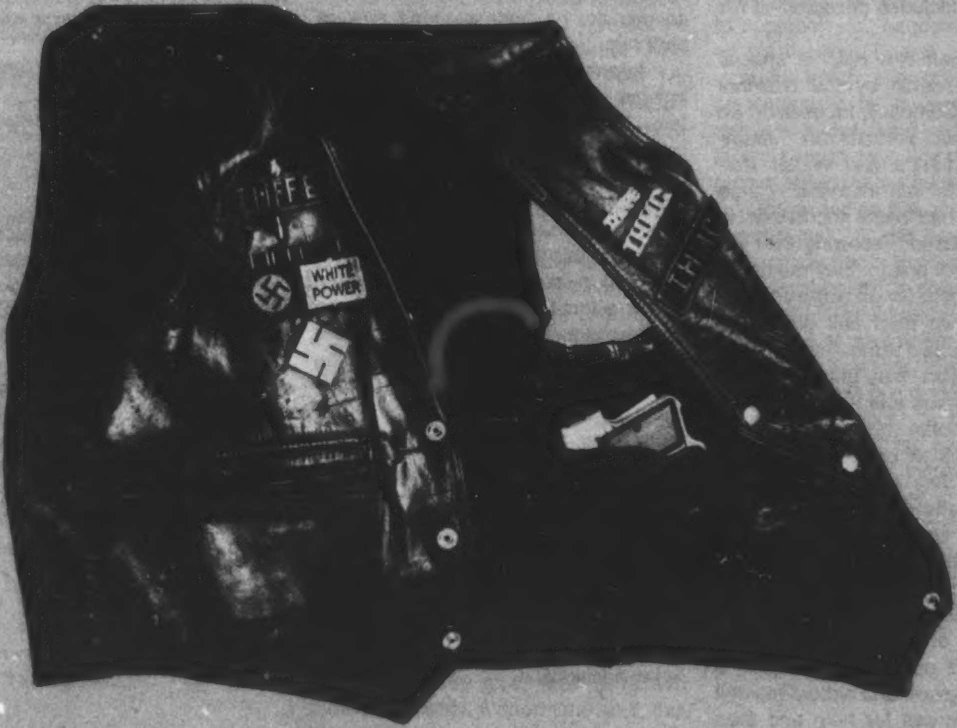
Handgun Concealment Technique

Of interest to law enforcement officers, particularly uniformed patrol officers who are most frequently encountering suspects on the street, is the following handgun concealment technique. A member of a Maine motorcycle club was found to have a thin leather holster, suitable for carrying semi-automatic handguns, sewn on the inside of his leather vest bearing his club colors. On the outside of the vest, directly covering the holster inside, was sewn a heavy leather swastika. The swastika covering is apparently designed to disguise a weapon during a "protective patdown" situation and does the job well, especially when a frisk is cursory.





SEARCH OF MOTOR VEHICLES INCIDENT TO ARREST

(Part I)

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

Limitations on the authority of American law enforcement officers to conduct searches and seizures are generally grounded in the fourth amendment to the U.S. Constitution, which provides:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

It has been frequently noted that the fourth amendment, by its terms, does not prohibit *warrantless* searches and seizures, but rather *unreasonable* searches and seizures.[1] And while the U.S. Supreme Court has consistently maintained for many years that searches without warrants are *per se* unreasonable, the Court has nevertheless recognized "a few specifically established and well-delineated exceptions" [2] to that general rule.

One such exception is the search incident to a lawful arrest. The authority, "always recognized under English and American law, to search the person of the accused when legally arrested to discover and seize the fruits or evidences of crime," was first noted by the U.S. Supreme Court in 1914 in *Weeks* v. *United States*.[3]

If it is true that the authority to conduct searches incident to valid arrests has been "always recognized," the principles governing such seizures—particularly with respect to their justification and scope—have not always been as clearly recognizable, and changes have been frequent. As Justice Byron White once noted:

"Few areas of the law have been as subject to shifting constitutional standards over the last 50 years as that of the search 'incident to an arrest.'" [4]

The purpose of this article is twofold: First, to trace briefly the development of those principles which govern the justification and scope of the search incident to arrest today; and second, to examine the extent to which those principles affect the authority of law enforcement officers to search motor vehicles.

Justification of the Search—*United States v. Robinson.*

The justification for a search incident to an arrest has traditionally been framed in terms of the need to "find and seize things connected with the crime...as well as weapons and other things to effect an escape from custody..." [5]

Perhaps because of the apparent emphasis on the need to secure evidence of *the* crime (presumably for which the arrest was made), many courts took the position that a search incident to arrest was justified only when the circumstances surrounding the arrest logically suggested the presence of evidence.[6] In other words, if the crime was such that it would not ordinarily have evidence or instrumentalities connected with it, then no search for evidence would be permissible.

The issue came squarely before the U.S. Supreme Court in 1973 in *United States* v. *Robinson*.[7] Robinson was arrested for operating an automobile after revocation of his operator's license and for obtaining a permit by misrepresentation. Following the arrest, Robinson was searched by the arresting officer and heroin was found in a "crumpled" cigarette pack located in Robinson's pocket. Robinson was convicted in a U.S. district court for

". . . the search incident to arrest is based on the need to protect the officer and prevent the destruction of evidence. . . ."

possession of heroin. The U.S. Court of Appeals for the District of Columbia reversed the conviction on the grounds that the arrest was for an offense of which no evidence could have been reasonably anticipated, and therefore no search for evidence was justified. The court of appeals would limit the arresting officer in such cases to a "frisk" for weapons to assure the officer's safety.

The U.S. Supreme Court reversed the court of appeals and established what may be described as a *per se* rule regarding *when* a search incident to an arrest may occur. The Court stated:

"The authority to search the person incident to a lawful *custodial* arrest, while based upon the need to disarm and to discover evidence, does not depend on what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect. A *custodial* arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification." [8] (emphasis added)

The same result was reached by the Court in *Gustafson* v. *Florida*,[9] a case decided the same day as *Robinson,* wherein the Court approved the search of Gustafson following his custodial arrest for driving an automobile without a valid operator's license. The search revealed marihuana cigarettes in a cigarette box located in Gustafson's pocket. The Court stated:

"Since it is the fact of *custodial* arrest which gives rise to the authority to search, it is of no moment that (the officer) did not indicate any subjective fear of the petitioner or that he did not himself suspect that the petitioner was armed. Having in the course of his lawful search come upon the box of cigarettes, [the officer] was entitled to inspect it; and when his inspection revealed the homemade cigarettes which he believed to contain an unlawful substance, he was entitled to seize them as 'fruits, instrumentaltities or contraband' probative of criminal conduct."[10] (emphasis added)

It is clear then that the authority to search a person incident to an arrest is not determined by the nature of the crime, but rather by the nature of the arrest. As the Supreme Court stated in *Robinson*:

"It is the fact of the lawful arrest which establishes the authority to search, and we hold that in the case of a lawful *custodial* arrest a full search of the person is not only an exception to the warrant requirement of the Fourth Amendment, but is also a 'reasonable' search under that Amendment." [11] (emphasis added)

Scope of the Search—*Chimel* v. *California*

From the *Weeks* case [12] in 1914, when the Supreme Court first noted the "always recognized" authority to search a person incident to arrest, until the 1960's, the law with respect to the scope of a search incident to arrest had altered so abruptly and so frequently that Justice Frankfurter, in a dissenting opinion, complained:

"Especially ought the Court not reenforce needlessly the instabilities of our day by giving fair ground for the belief that Law is the expression of chance—for instance, of unexpected changes in the Court's composition and the contingencies in the choice of successors." [13]

By the 1960's, the scope of a search incident to arrest had generally come to be defined as "the place where the arrest is made in order to find and seize things connected with the crime. . . ."[14] Thus, a search could extend to the area considered to be in the "possession" or under the "control" of the person arrested.

In 1969, the Supreme Court decided *Chimel* v. *California.*[15] That case involved the search of Chimel's three-bedroom house following his arrest inside the premises for burglary. Although the State courts held the search of the house to be a valid search incident to the arrest, the Supreme Court reversed. In its decision the Court stated:

"When an arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that the latter might seek to use in order to resist arrest or effect his escape. Otherwise, the officer's safety might well be endangered, and the arrest itself frustrated. In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction. And *the area into which an arrestee might reach* in order to grab a weapon or evidentiary items must, of course, be governed by a like rule. A gun on a table or in a drawer in front of one who is arrested can be as dangerous to the arresting officer as one concealed in the clothing of the person arrested. There is ample justification, therefore, for a search of the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence."[16] (emphasis added)

Inasmuch as the search incident to arrest is based on the need to protect the officer and prevent the destruction of evidence, the scope of the search must be "strictly tied to and justified by the circumstances which rendered its initiation permissible."[17]

Interestingly enough, this concept had been expressed 5 years earlier in an automobile search case, *Preston* v. *United States*.[18] At 3:00 a.m., Newport, Ky., police investigated "three suspicious men" who, according to a telephone complaint, had been sitting in an automobile in a business district since 10:00 p.m. the previous evening. Upon confronting the three men, the police received ambiguous responses as to their purpose for being in the area at that hour and determined that all three were unemployed with no more than 25 cents among them. Based on this information, the three were arrested for vagrancy, searched for weapons, and taken to police headquarters. Although the car was not searched at the time of the arrest, it was driven to the police station and then to a garage where two subsequent searches occurred. The first search uncovered two loaded revolvers in the glove compartment. The second search, apparently conducted after the officers had returned to the police station and then back to the garage, located several items in the trunk which were used as evidence at the trial of the defendants on a charge of conspiracy to commit bank robbery. In holding the searches unconstitutional, the Court said:

"It is argued that the search and seizure was justified as incidental to a lawful arrest. Unquestionably, when a person is lawfully arrested, the police have the right, without a search warrant, to make a contemporaneous search of the person of the accused for weapons or for the fruits of or implements used to commit the crime. This right to search and seize without a search warrant extends to things under the accused's immediate control, and, to an extent depending on the circumstances of the case, to the place where he is arrested. The rule allowing contemporaneous searches is justified, for example, by the need to seize weapons and other things which might be used to assault an officer or effect an escape, as well as by the need to prevent the destruction of evidence of the crime—things which might easily happen where the weapon or evidence is on the accused's person or under his immediate control. . . . Once an accused is under arrest and in custody, then a search made at another place, without a warrant, is simply not incident to the arrest."[19] (citations omitted)

Thus, the *Preston* case concluded that the factors justifying the search were "absent where a search is remote in time or place from the arrest,"[20] just as, 5 years later, *Chimel* concluded that the factors justifying the search were absent where the search exceeded the proper scope and "went far beyond the petitioner's person and the area from within which he might have obtained either a weapon or something that could have been used as evidence against him."[21]

Taken together, *Robinson* and *Chimel*, respectively, provide two of the basic principles regarding the search incident to arrest:

1) A lawful *custodial* arrest, of itself, justifies a search incident to that arrest, and no further justification is required.

2) Once initiated, the search includes not only the *person* arrested but extends to the *area within his immediate control.*

Additionally, *Preston* requires that the search of the *area* be *contemporaneous* with the arrest inasmuch as the bases for the search are the need to protect the arresting officers and prevent destruction of evidence—bases which presumably disappear if the search is remote in time or place.

Thus far the discussion has centered on *general* principles underlying the search incident to arrest, without regard to the application of those principles to specific situations. In the second part of this article, which will appear in next month's FBI Law Enforcement Bulletin, the manner in which the courts have applied these principles to searches of motor vehicles will be examined. **FBI**

(Continued next month)

Footnotes

[1] See, *Terry* v. *Ohio*, 392 U.S. 1, 9 (1968); *Elkins* v. *United States*, 364 U.S. 206, 212 (1960).

[2] *Katz* v. *United States*, 389 U.S. 347, 357 (1967); *Coolidge* v. *New Hampshire*, 302 U.S. 443, 449 (1971).

[3] 232 U.S. 383, 392 (1914).

[4] *Chimel* v. *California*, 395 U.S. 752, 770 (1969) (White, J., dissenting).

[5] *Agnello* v. *United States*, 269 U.S. 20, 30 (1925); See also, *Preston* v. *United States*, 376 U.S. 364, 367 (1964); *Chimel* v. *California*, *supra* note 4.

[6] E.g., *Thompson* v. *State*, 398 S.W. 2d 942 (Tex. Crim. 1966); *Church* v. *State*, 333 S.W.2d 799 (Tenn. 1960); *State*, v. *Taft*, 110 S.E.2d 727 (W.Va. 1959); *State* v. *Michaels*, 374 P.2d 989 (Wash. 1962); *Barnes* v. *State*, 130 N.W.2d 264 (Wis. 1964).

[7] 414 U.S. 218 (1973).

[8] *Id.* at 235.

[9] 414 U.S. 260 (1973).

[10] *Id.* at 266.

[11] *Supra* note 7, at 235.

[12] *Supra* note 3.

[13] *United States*, v. *Rabinowitz*, 339 U.S. 56 (1950) (See J. Frankfurter's dissent at 66).

[14] *Id.* at 61.

[15] *Supra* note 4.

[16] *Id.* at 762-763.

[17] See, *Terry* v. *Ohio*, *supra* note 1, at 19.

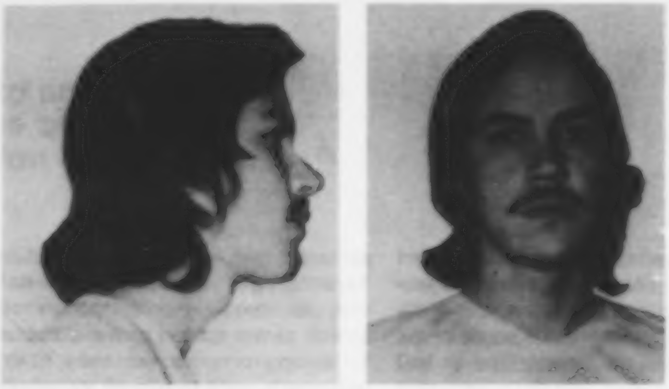
[18] *Supra* note 5.

[19] *Id.* at 367.

[20] *Id.* at 367.

[21] *Supra* note 4, at 768.

WANTED BY THE FBI



Photographs taken 1978.

Joseph Arlin Shepherd

Joseph Arlin Shepherd, also known as Joe Sheperd, Joe Shepherd, Joseph Arlen Shepherd, Joseph A. Shepherd, Joseph Arlon Shepherd, Joseph Arlond Shepherd.

Wanted for:

Interstate flight—Murder, Aggravated assault.

The Crime

Shepherd, an escapee from custody who may be armed with a shotgun, is being sought in connection with the sexual assault and murders of two teenage females whose bodies were found buried in shallow graves. Shepherd has also been charged with assaulting a police officer and has reportedly stated he would not be taken alive.

A Federal warrant was issued on August 9, 1978, at Chattanooga, Tenn.

Criminal Record

Shepherd has been convicted of petty larceny.

Description

Age	27, born January 5, 1953, Sweetwater, Tenn.
Height	6'.
Weight	150 to 155 pounds.
Build	Slender.
Hair	Brown.
Eyes	Green.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Auto mechanic, laborer.
Scars and Marks	Scar left forearm.
Remarks	Reportedly illiterate.
Social Security Nos. Used	411-94-4104 411-54-4404.
FBI No.	877 750 K 10.

Caution

Shepherd should be considered armed, dangerous, and an escape risk.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data:

NCIC Classification:
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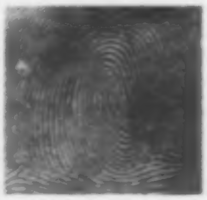

Right ring fingerprint.

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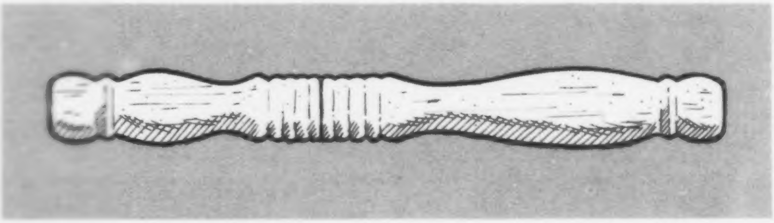
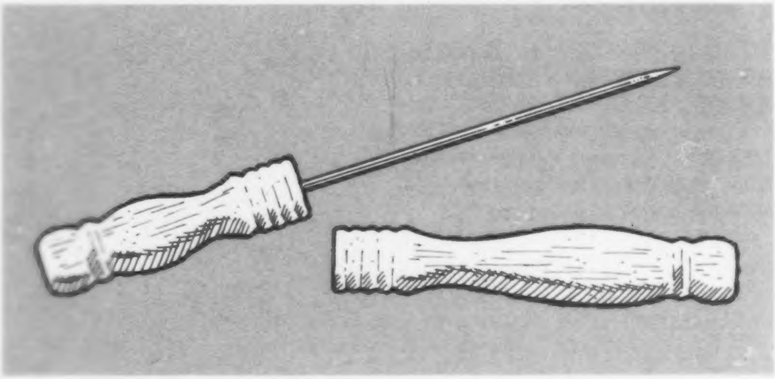
This seemingly innocent ice pick becomes a potentially dangerous weapon when the cover is removed. When covered, the commercially marketed ice pick can be used as a "yawara stick," which is a martial arts weapon used in striking blows and applying pressure to certain areas of the body.

The unusual weapon featured on the inside back cover of the February 1980, issue was submitted by the Yazoo City, Miss., Police Department.





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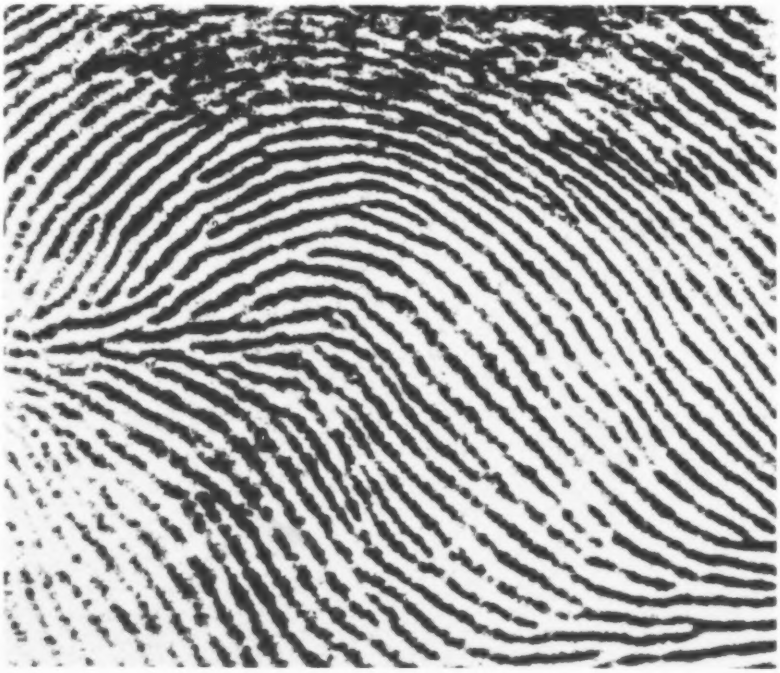

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FBI LAW ENFORCEMENT BULLETIN

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In the early morning hours, Detroit, Mich., police officers respond to the radio call, "Shooting in progress, officer involved. . . ." (Photo courtesy Officer Alan Halstead)

Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

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The Polygraph Technique

PAST AND PRESENT

By JAMES K. MURPHY
Special Agent
Laboratory Division
Federal Bureau of Investigation
Washington, D.C.

History of the Polygraph

In the middle of the 19th century, Dr. Hans Gross, an Austrian known as the "Father of Criminalistics," defined "search for truth" as the basis and goal of all criminal investigations. He asserted that "a large part of the criminalist's work is nothing more than a battle against lies. He has to discover the truth and must fight the opposite. He meets the opposite at every step."[1]

The search for truth and attempts at uncovering falsehood have been a universal and almost constant endeavor dating back to ancient time. In their attempt to discover deception, primitive societies developed complex procedures founded on magic and mysticism. To open the doors to truth, divine creatures sent messages through fire, boiling water, and torture. In some instances, faith in these powerful mysticisms miraculously allowed the innocent to go unscathed while the guilty bore the mark of guilt.

Some of these rituals were based on sound physiological principles. Oriental people, for example, distinguished truth from lying by having all of the accused chew dry rice and then spit it out. While this was a simple task for the honest, those who were deceiving had difficulty in accomplishing this task and were then judged to be guilty and punished accordingly. This practice recognized that fear slows the digestive process, including salivation. Thus, the deceptive were unable to spit out the dry rice, while the innocent, having faith in the power of their deity to clear them of the unjust accusation, felt little fear in contrast to the guilty who knew they would be discovered.[2]

Throughout the centuries, man continued to experiment with more scientific methods in determining truth and detecting deception. In 1895, Cesare Lombroso, an Italian scientist, employed the first scientific instrument to detect deception. This instrument, the hydrosphygmograph, measured changes in pulse and blood pressure when suspects were questioned about their involvement in or knowledge of a specific offense.

In 1914, Vittorio Benussi successfully detected deception with a pneumograph, an instrument that graphically measures an examinee's inhalation and exhalation. Benussi thus demonstrated that changes in breathing patterns accompany deception.

Further research by William Marston in 1917 dealt with the sphygmomanometer, which was used to obtain periodic discontinuous blood pressure readings during the course of an examination. He also experimented with and helped to develop the pneumograph, which records breathing patterns, and the galvanometer, which registers changes in skin resistance.

In 1921, John A. Larson developed the polygraph, an instrument capable of continuously recording blood pressure, pulse, and respiration. Leonarde Keeler continued research and development of the polygraph, and in 1949, the "Keeler Polygraph" included components that recorded changes in blood pressure, pulse, and respiration, as well as the newly developed galvanic skin reflex.

Research continued, culminating in what emerges today as a highly sophisticated, scientifically based technique.

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Principles of the Polygraph

Everyone has at least a partial understanding of the psychology of lying and lie detection. Most of us are personally acquainted with the inner sensations that so often accompany telling a lie. In endeavoring to conceal the truth, one might feel a thudding increase of the heart beat, the rush of blood to the face, an uncontrollable impulse to swallow, or other symptoms resulting from fear over the possibility that the lie will be detected.[3]

These physiological changes—breathing, blood pressure, pulse rate and amplitude, and the galvanic skin reflex—are the phenomena with which the polygraph examiner concerns himself. The polygraph is a scientific, diagnostic instrument used to measure the physiological response of an examinee under controlled conditions.

The polygraph is based on the theory that when telling a lie, an examinee will respond physiologically because of fear of detection. Many investigators are under the misconception that a person responds on the polygraph out of a feeling of guilt for having committed the offense, or possibly for moral reasons because of upbringing or social background. This misunderstanding has led some to believe that hardened criminals, sociopaths, psychopathic liars, etc., can "beat" the polygraph because of their background or deviant personality. For whatever the reason, loss of job, reputation, or standing in the community, possible criminal conviction and jail time, personal humiliation, or simply a desire to keep the truth from the investigator who represents authority and the "system," it is fear of detection that causes the physiological changes the polygraph instrument records and the examiner interprets.

A typical modern four-channel polygraph instrument.

Practical Application

The actual polygraph examination consists of three phases: The pretest interview, the testing, and the post-test phase which, if warranted, consists of an interrogation.

However, prior to meeting the examinee, the examiner should confer with the investigator and obtain as many of the details of the offense as are available, as well as any other information pertaining to the examinee which might have a bearing on the case. For instance, is this person a suspect? If so, why? Does he have a prior record for this type of crime?

After thorough familiarization with the case, the examiner will be better able to converse with the examinee, as well as construct an appropriate series of questions for the actual examination. Having done this, the examiner is ready for the pretest interview.

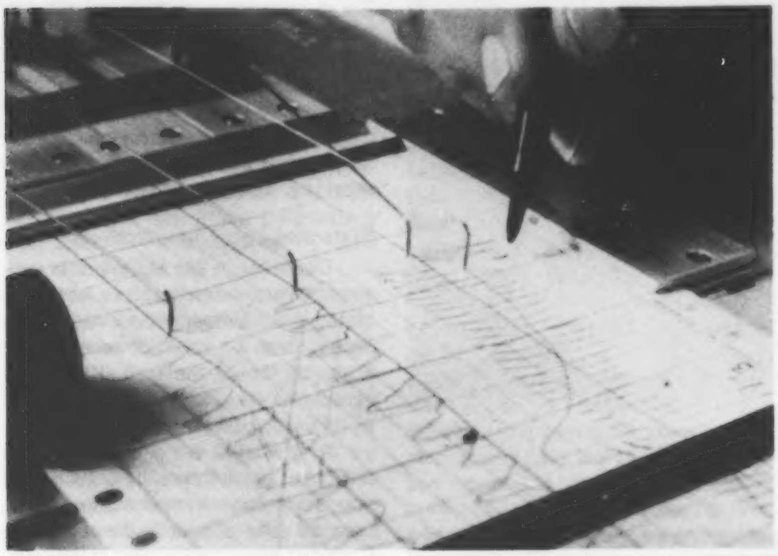
Pretest Interview Phase

This phase enables the examiner to introduce himself and explain the testing procedure and instrument, as well as establish a certain degree of rapport, obtain the examinee's version of the offense and/or alibi, and any other statement he desires to make. Whenever it is required, the examinee should be advised of his constitutional rights before any action is taken.

The questions to be used on this examination are also rehearsed with the examinee during this phase. When the pretest portion is completed, the actual testing begins.

The Testing Phase

Given a variety of threatening stimuli, a person will give greater psychological attention to that area which he perceives to hold the greatest threat to his well-being at that time. This is called psychological set; a properly constructed series of questions will offer this variety of stimuli.



Polygraph instrument tracings being recorded on chart paper during examination.

All questions are answered by only "yes" or "no." They have been rehearsed prior to the examination, and the examiner should be totally familiar with them. The series consists of relevant questions that cover knowledge, participation, and direct involvement in the offense under investigation, as well as irrelevant questions that are interspersed throughout the series. Questions such as whether he is wearing shoes, if his first name is John, or if he has been to the movies allow the examiner to establish a "normal" chart pattern in areas of known truth. Popular techniques used today include the use of control questions to which the examinee will probably lie. They deal with areas similar to the one under investigation; however, they are separated from the current matter by time and place. Reactions to these control questions are then compared to the reactions to the relevant questions. A well-trained polygraph examiner is then able to conclude whether deception is indicated.

If the results of the examination indicate that the examinee is telling the truth, he should be dismissed at that time with an expression of appreciation for his cooperation.

If the results indicate deception, the examiner should proceed to the final phase, unless there has been agreement to the contrary with the examinee's attorney.[4]

The Post-Test Interrogation

If the examiner has concluded that the examinee is lying, his objective is to explore and resolve the issue, seeking the truth. By definition, interrogation is a pointed, verbal solicitation of specific information. It must be done within the framework of our legal system. The examiner is legally bound to protect the rights of the individual, and by doing so, insure that the public interest is protected.

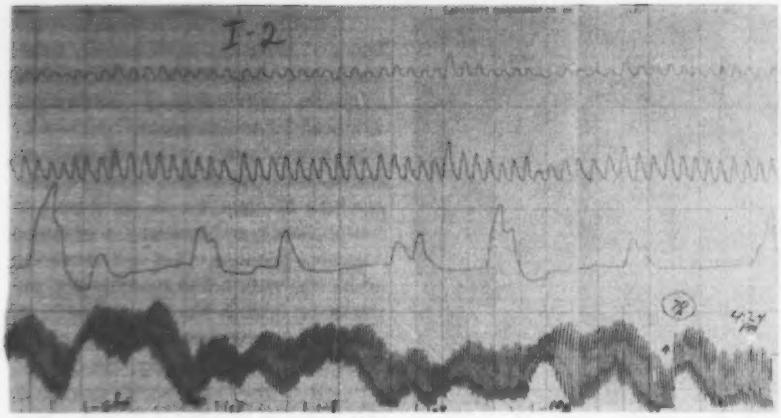
Effective use of interrogation tactics and techniques will usually overcome the examinee's inhibition that may be preventing a confession. The well-trained examiner/interrogator knows how to rationalize and minimize the seriousness of an offense, no matter how heinous. He is persuasive in his approach and makes a confession tolerable because of his understanding of human nature. His maturity and experience enable him to deal with all types of people from all levels of our society.

Validity and Reliability of the Polygraph

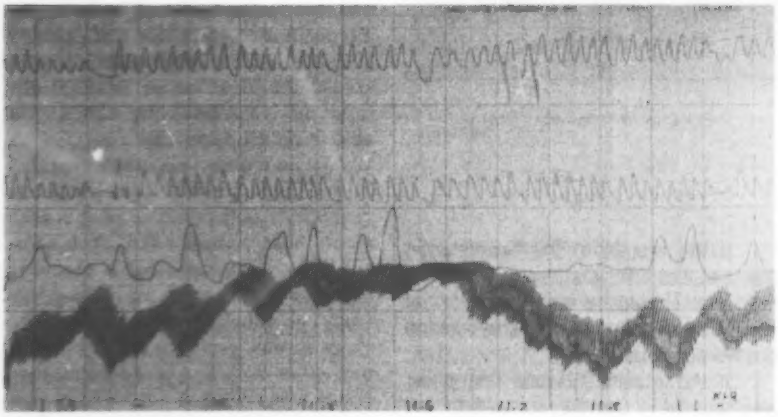
Use of the polygraph or any other scientific tool or technique in a forensic setting, wherein the rights of individuals are involved, should be based on the demonstrated validity and reliability of the technique. With respect to polygraph, the question is whether the polygraph examiner is consistently able to detect deception.

There are obvious problems in trying to conduct research to determine the validity and reliability of the polygraph. First, it is very difficult to simulate the psychophysiological reactions of a criminal suspect in a laboratory study or mock-crime situation. The same elements of fear and motivation that would be acting on suspects in an actual crime are just not present. Second, it is difficult to determine validity and reliability by studying polygraph results in actual criminal cases because the complete truth regarding the crime and its perpetrator(s) is generally unavailable and conclusions reached by polygraph examiners are normally not subject to full confirmation.

There have been a number of studies that give noteworthy recognition to the validity and reliability of the polygraph. One study published in 1978, which used polygraph examinations under laboratory conditions as well as on criminal suspects, concluded an accuracy rate in excess of 90 percent when the examinations were properly conducted and evaluated.[5]



Polygram showing greatest responses at the control questions in this particular test series, indicating that the subject of the examination is not deceptive to the relevant questions.



Polygram for peak of tension test. Test pattern shows increasing anxiety as test proceeds toward question where subject reacts very significantly, indicating deception (question 6), and then relief during subsequent questions.

Other studies have concluded the polygraph to be 99 percent accurate, with an almost matching reliability rate.

It is generally believed that laboratory testing used in polygraph research tends to affect adversely the otherwise higher validity and reliability rates. Under laboratory conditions, it is difficult to simulate the stress that occurs under actual conditions.

Legal Status of the Polygraph

Federal Jurisdiction

The U.S. Supreme Court has denied *certiorari* on all cases where admissibility of polygraph results has been at issue. It has commented on the nature of polygraph results and noted it as one of the factors in deciding whether a confession or admission was voluntary.

District courts have admitted polygraph results in 9 of the 11 Federal circuits. The appellate courts have upheld State stipulations, wherein both the prosecutor and defense attorney agreed to admit the results of the examination prior to conducting it.

The general rule seems to be that admissibility is at the trial court's discretion; however, confessions resulting from polygraph examinations are almost universally accepted.

State and Local Jurisdictions

Decisions in the State courts indicate polygraph results have been admitted in 36 States, not admitted in 13 States, and no case of record in 1 State. Of the 36 States that have admitted results, 22 limited the admissions to stipulated results.

In 15 States, a trial court admitted polygraph results over the objection of opposing counsel without subsequent reversal. The Supreme Court for the States of New Mexico and Massachusetts have ruled similarly in favor of admitting polygraph results as evidence over the objection of opposing counsel.

There is a strong trend in State courts to follow the Arizona case of *State* v. *Valdez*[6] concerning stipulated admission of polygraph results. For cases of admissibility over objection of opposing counsel, New Mexico's 1975 case of *State* v. *Dorsey*[7] is often cited. Both of these cases have specific rules to be followed by the parties seeking admissibility.[8]

In a recent case, *People* v. *Daniels,*[9] the New York Supreme Court, Westchester County, stated that polygraph evidence should be treated like any other "if the evidence has substantial probative value and is relevant to the issue and does not endanger defendant's rights, or prejudice the jury, nor mislead the proper administration of justice, then it should be admitted as any other evidence."[10] The court pointed out that fingerprints, ballistics, and other kinds of scientific evidence are admitted under the same standard.

In reaching its decision, the court noted the many advancements in polygraph in recent years and that recent research had established the reliability and accuracy of the device at about 90 percent.

In discounting a number of objections to admissibility, the court stated that "the chance of beating the polygraph is no greater than outwitting the jury." [11] Further, the court pointed out that the case against the defendant rested upon his identification by a single eyewitness, the victim, and then declared that eyewitness testimony is "proverbially untrustworthy" [12] and less reliable that the polygraph.

The court laid down several standards to be observed in admitting polygraph evidence. Among other things, each side may choose a polygraph examiner whose competence and experience will be subject to scrutiny by the court. Also, the testimony of the examiner is to be considered "opinion evidence" and is not conclusive of guilt or innocence. The court also stated a threshold requirement—the defendant's knowing and voluntary agreement to be tested.

Conclusion

The polygraph technique, when properly used by competent, well-trained examiners, possesses a high degree of accuracy, adding a new dimension to an agency's enforcement capabilities. If readily available to its investigators, the uses of the polygraph are flexible and varied. Besides identifying guilt, it can eliminate suspects, verify witnesses' statements, corroborate informant information, and determine the veracity of a complainant's statement.

The polygraph, when used judiciously, can be instrumental in reducing costs and saving man-hours. It can also dramatically increase the conviction rate due to the high occurrence of confessions made by suspects who had been less than candid prior to the polygraph examinations. **FBI**

Footnotes

[1] Eugene B. Block, *Lie Detectors: Their History and Use* (New York: David McKay Company, Inc., 1977), p. 11.

[2] Stanley Abrams, *A Polygraph Handbook for Attorneys* (Lexington, Mass.: Lexington Books, 1977), p. 11.

[3] John E. Reid and Fred E. Inbau, *Truth and Deception* (Baltimore: The Williams and Wilkins Company, 1977), p. 1.

[4] Reid and Inbau, p. 307.

[5] David C. Raskin, Ph.D., and Gordon H. Barland, Ph.D., John A. Podlesny, M.A., "Validity and Reliability of Detection of Deception," National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice, 1978.

[6] *State* v. *Valdez*, 371 P. 2d 894 (Ariz. Sup. Ct. 1962).

[7] *State* v. *Dorsey*, 532 P. 2d 912 (N.M. Ct. App. 1975), remanded, 539 P. 2d 204 1975.

[8] Norman Ansley, *Polygraph Admissibility*, 3d ed., (Linthicum Heights, Md.: American Polygraph Assoc., 1979).

[9] The Criminal Law Reporter, Feb. 6, 1980, vol. 26, No. 18, Sec. 1, p. 1089.

[10] Id.

[11] Id. at 2386.

[12] Id.

Bombing Incidents Decline

In 1979, 1,196 bombing incidents occurred in the United States and Puerto Rico, the lowest volume of bombings recorded since 1972 when the Federal Bureau of Investigation started collecting such statistics. The 1979 bombings resulted in 22 deaths, 165 injuries, and over $6.6 million in property damage.

While the actual number of bombings declined, casualties from these incidents rose 22 percent over the number reported in 1978. Fatalities were up from 18 to 22, and injuries increased from 135 to 165. Eight of those killed in last year's attacks were the perpetrators themselves, seven were intended victims, six were innocent bystanders, and one was a law enforcement officer.

Innocent bystanders accounted for 61 or 37 percent of the nonfatal injuries. Fifty of those injured were intended victims, and 44 were the bombers themselves. Nine law enforcement officers and one fireman suffered nonfatal injuries.

Of all reported incidents in 1979, 825 involved explosive devices and 371 were incendiary in nature. Eighty-five percent of the 1,196 attacks were actual bombings, and 15 percent were attempts. As in previous years, residences were the most frequent targets, nearly 1 out of every 3 attacks was directed at residential property. Commercial establishments and office buildings, vehicles, and schools accounted for 62 percent of the remaining incidents.

Geographically, 417 bombings occurred in the Western States, 361 in the Southern States, 273 in the North Central States, 114 in the Northeastern States, and 31 in Puerto Rico. **FBI**

Crime Problems

THE FIRESETTER

A Psychological Profile

(Part 1)

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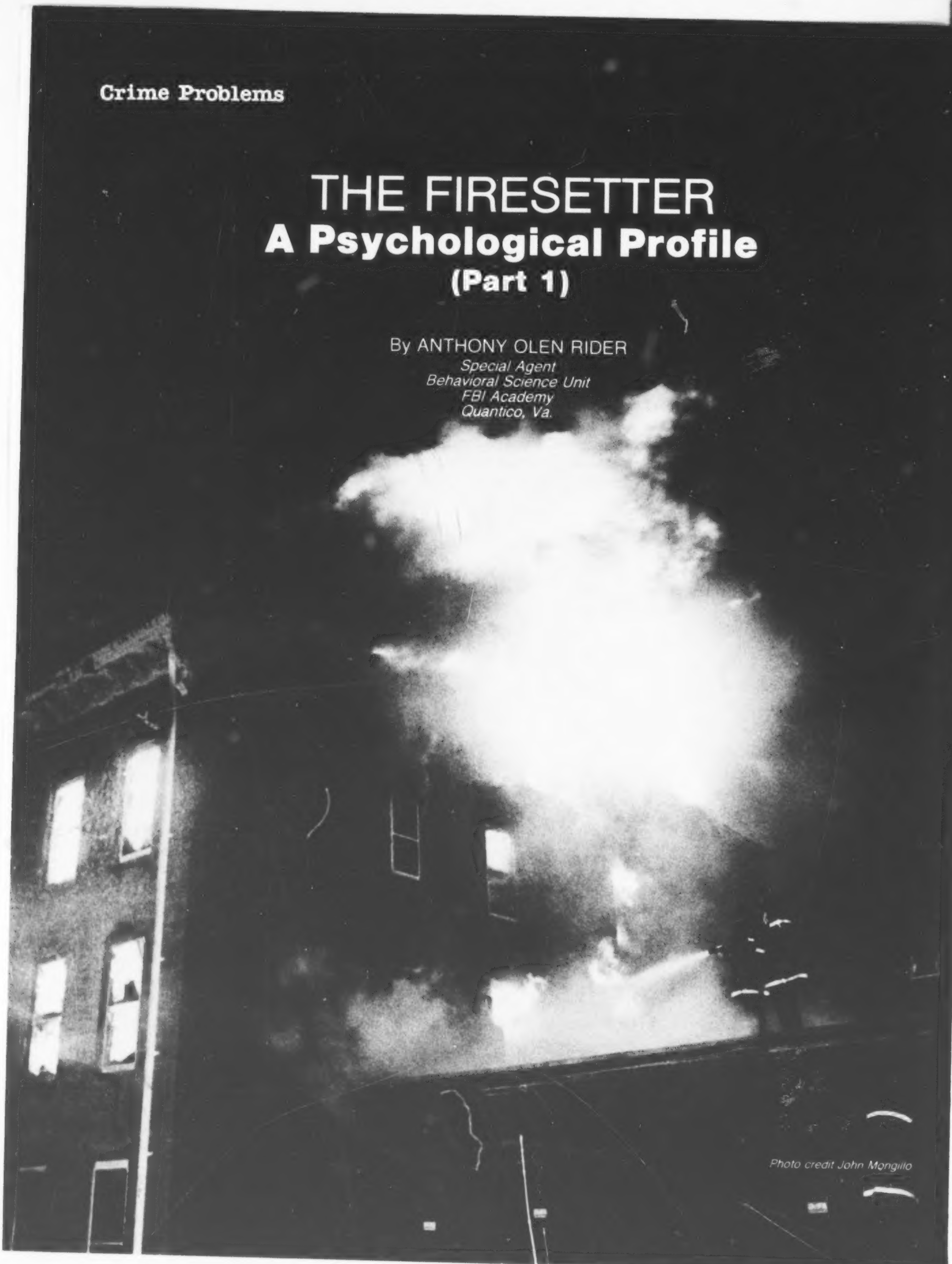

Photo credit John Mongillo

The psychiatric study of firesetting reveals that such behavior "represents the means of dealing with or giving expression to deeper emotional conflicts." [1] It has been identified by some clinical researchers as an early warning sign or predictor of possible future violent, criminal, or even homicidal behavior in children. Firesetting has also been associated with repressed hostility, aggressiveness and destructive tendencies, sadism, sexual immaturity, urethal eroticism, and pathological revenge.

Understanding the psychological aspects of firesetting is essential to the control and deterrence of arson. Thus, knowing the arsonist's psychodynamics can be an invaluable aid to the investigator. It assists him in focusing his investigation, identifying potential suspects, and developing appropriate techniques and strategies for interviewing the various types of firesetters.

Arson: A National Epidemic

Arson, the willful and malicious burning of property, is "one of the nation's most serious human-made disasters," [2] according to John W. Macy, Jr., Director of the Federal Emergency Management Agency. It has also become one of the most prodigious, devastating, and expensive forms of criminal behavior perpetrated against society.

Until recently, arson has drawn little attention as a national priority. Since it has been generally viewed in the past as essentially a local problem, Federal involvement in the investigation and prevention of arson has been minimal, if existent at all. Authorities now find, however, that the tentacles of arson have transcended jurisdictional boundaries and pose a disastrous threat to the future safety and financial stability of the country. As a result, the fire service, law enforcement, insurance industry, and various legislatures have mounted a combined offensive to deter its continuing devastation.

Traditionally, the law enforcement community has been on the periphery of arson. Since primary responsibility for such investigations has historically rested with the fire service, police have not generally assumed a major role in either the deterrence of arson or in the identification and apprehension of firesetters. But, arson has become one of the most prolific forms of criminality in this country.

Incendiarism (the willful destruction of property by fire) has destroyed or severely damaged practically every type of structure or mode of transportation in this country. It has also raped our forest and watershed lands and has been responsible for the death and injury of thousands of persons over the past years. An estimated 1,000 persons are killed and approximately 10,000 are injured by arson annually.[3]

The precise incidence and cost of incendiary crime, however, is unknown. According to a report submitted by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, ". . . the magnitude of the arson problem is not widely appreciated, probably because of the lack of a well known source of reliable arson statistics." [4] However, the unavailability of reliable and informative statistics on arson not only is due to the lack of a centralized source of arson and fire statistics but "to the secrecy and detached nature of the offense and the oddities of intent and motivation." [5] Consequently, the actual frequency of arson is distorted and unapparent.

Incidence and Cost of Arson

Though the exact statistical incidence of arson is unknown, its estimates clearly demonstrate a formidable threat. Its known and suspected occurrence appears to be growing at a quantum rate. For instance, during the 10-year period from 1964 to 1974, the reported incidence of incendiary and suspicious-origin fires of buildings more than tripled, increasing from approximately 31,000 to 114,000 in number—an approximate 270-percent increase.[6] Monetary losses during that period increased approximately 726 percent.[7] In 1974 alone the estimated loss figured at $563 million.[8]

There were 187,400 incendiary and suspicious fires in 1974; the cumulative, estimated property loss for these fires totaled $616 million. When one-half of the "unknown-cause" fires for that year were included, the incidence of arson climbed to over 502,000, with a total estimated property loss of almost $1.3 billion.[9]

The "1978 National Fire Experience Survey," published by the National Fire Protection Association (NFPA), disclosed that the reported incidence of incendiary and suspicious-origin structure (508,512) and vehicle (48,444) fires totaled almost 557,000 for that 12-month period. Their aggregate property loss amounted to over $1 billion. In the survey, however, the NFPA made no adjustments for unreported fires or losses.[10] If half of the unknown-cause fires were to be included in the 1978 estimates, the incidence of arson for that year could easily exceed $1.5 billion and possibly approach $2 billion in direct losses.

While presiding as Chairman of the U.S. Senate Arson-for-hire Hearings before the Permanent Subcommittee on Investigations in 1978, Senator Sam Nunn (D-Georgia) charged that "arson is our costliest crime with losses estimated at $2 billion a year and rising at a rate of 25 percent annually."[11] When the indirect costs (increased taxes, higher insurance premiums, medical costs, and cost of fire service, etc.) associated with these fires are included, the annual loss due to arson may be as high as $10 billion.[12]

Extent of Arson-For-Profit

According to Senator Nunn, arson-for-profit is "the fastest growing crime in this country."[13] But due to the nature of the offense, its actual incidence is as much speculation as fact.

The studies conducted, however, have found that the fraud motive was represented in only 5 percent of the sample of arrestees, even though they were involved in 17 percent of the cases.[14] Some authorities, however, have estimated arson-for-profit to represent at least 20 to 30 percent of the arsons, though "only three or four percent of those arrested for arson are suspected of doing it for profit."[15]

> "There is currently a scarcity of reliable data on the relative incidence of arson-for-profit or on the types of structures or businesses which are at high risk. It is generally agreed, however, that the risk of fraud arson is especially high where changing economic conditions have created an over-insurance situation."[16]

Efforts are presently being taken by the fire service, the Nation's fire and casualty insurers, and law enforcement agencies to identify those high-risk structures and to take the profit out of arson. The deployment of Federal, State, and local arson task forces, organized crime strike forces, and fire-police arson investigative teams have been instrumental in surfacing and penetrating many arson-for-profit schemes and enterprises. Though prosecution of arson profiteers has excelled, the number of arsonists remaining at large is suspected to be plethoric.

Obviously, policymakers, as well as those directly responsible for fettering arson and arson-for-profit, need more comprehensive and accurate information if they are to attack effectively and curtail the growth of incendiarism in this country.

". . . arson has become one of the most prolific forms of criminality in this country."

Problematic Areas in the Study of Arson

Historically, the scientific study of arson and firesetting behavior has been scattered and incomplete. Though arson has always represented a formidable threat to society, "very little interest has been generated in even understanding the arsonist as a type of offender, much less in tracing the etiology of arson."[17] Though much has been written on firesetting behavior, the literature provides little practical information for the investigator beyond a multiplicity of diverse and arbitrary classification systems, a variety of motivational factors, and a number of narrowly defined clinical profiles or composites of arsonists.

Most clinical and empirical studies in the past have focused principally on the pathological firesetter, such as the pyromaniac, the psychotic arsonist, the revenge firesetter, and the emotionally disturbed, repetitive child firesetter. Little concrete knowledge really exists regarding the "typical" arsonist or the incendiaries who set fires for financial gain.

Although some significant exploration has been made into the psychodynamics of the arsonist, few well-controlled and systematic studies have been conducted which produced reliable data. Research conclusions have often been contradictory and predicated on narrowly drawn and biased sample populations, incomplete data, and conjecture. As a result, the determinants of arson still remain largely unknown. Futhermore, the solutions to the prevention and control of psychologically motivated incendiarism are far from being resolved.

The arson researcher, however, is not solely responsible for this paucity of information or lack of systematic research. Efforts to explore the psychological aspects of firesetting have often been thwarted by variables beyond control, e.g., low apprehension and conviction rates of arsonists, the methods of legal disposition of arson cases, legal constraints in the disclosure of information, and the inherent difficulties associated with accessing samples of firesetters.

Five problematic areas have directly affected the systematic study of arson. These areas include apprehension of arsonists, legal disposition of arson cases, sources of arson statistics, legal constraints in information exchange, and focus, taxonomies, and conclusions of previous studies.

Apprehension of Arsonists

Arson is commonly committed under a veil of secrecy. Witnesses are scarce and evidence is often minimal, if existent at all. Consequently, relatively few arsonists are identified or eventually apprehended, and those caught may not be truly representative of the arsonist population. Some authorities have even declared that an overwhelming majority of arsonists are never identified or arrested.[18]

Empirical studies in firesetting behavior intrinsically hinge on their accessibility to known arsonists. Research in this area is inherently biased and acutely dependent on the interests and talents of those responsible for sifting through the ashes of conflagrations, identifying and apprehending arsonists, and judiciously prosecuting them, since few arsonists are prone to turn themselves into the authorities or voluntarily confess.

Little may be truly known about the psychodynamics of the majority of firesetters or if the various psychological profiles extrapolated from the known arsonist population are typical and representative of those not identified. This problem is best illustrated by Dr. Bernard Levin of the Center for Fire Research. "Unfortunately, our knowledge about the psychopathology of firesetters is limited to those arsonists who are caught or give themselves up. In short, we know the most about the least successful arsonists." [19]

A 1977 report stated that arrest rates for arsonists were low in comparison to arrests of Uniform Crime Reports (UCR) Index offenders. In fact, for every 100 fires classified as incendiary or suspicious, only about 9 persons were arrested in comparison to 21 arrests for every 100 Index crimes.[20]

Not only is little known about arsonists, per se, but even less is known about the arsonist-for-profit. Again, there exist no exact statistics concerning the incidence of arson-for-profit nor for its apprehension rate.

Legal Disposition of Arson Cases

The systematic study of arson is further complicated by the legal disposition of arson cases. Not only are few arson offenders apprehended for their crimes, but even fewer are prosecuted or convicted.

The conviction rate for arson has been estimated between 1 and 2 percent nationally.[21] For each 100 reported incendiary or suspicious fires, there are approximately two individuals convicted. When the definition of arson is expanded to include one-half of the fires of "unknown causes," the conviction rate drops to 0.75.[22]

Reasons for the low conviction rate are multiple. In addition to the low apprehension rate of firesetters, many arson cases reportedly are not processed through the criminal justice system for one reason or another. For instance, prosecutors may elect not to prosecute due to insufficient evidence or may even refer certain defendants, who are found to be mentally ill or alcoholic, to the mental health community for treatment. Still other firesetters may be only partially processed through the system. Cases may be later dismissed or defendants acquitted of the charges brought against them.

The systematic study of arsonists has also been further complicated by the fact that some offenders are permitted to plea bargain to lesser offenses or to some crime unrelated to arson (burglary, breaking and entering, malicious mischief, criminal trespass, extortion, destruction of property, etc.). This, of course, statistically distorts the actual number of arsonists prosecuted and conceals their identities under other dispositions. Moreover, not all convicted arson offenders are incarcerated once they are convicted. In fact, it has been estimated that approximately one-half of the convicted adult arsonists and practically all of the juvenile arson offenders are not remanded to prison, jail, or juvenile correctional facilities. Probation appears to be a prevalent alternative to incarceration.

Since it is common practice for criminologists and clinicians in their study of criminal and abnormal behavior to select their sample populations from prisons, juvenile reformatories, psychiatric facilities, and parole and probationary groups, it is reasonable to anticipate that studies of arsonists would rely on similar environments and sample populations.

However, any attempt to develop a profile of the "typical" arsonist from these populations would be tenuous at best. Those arson offenders confined in prisons or psychiatric facilities or on probationary or parole status are not likely to represent a cross section of the arsonist population. In fact, they are most likely atypical, since such a small number are arrested or convicted for their crimes.

Sources of Arson Statistics

A third problematic area pertaining to the systematic study of arson relates to the compilation and analysis of national fire and arson statistics. They have been complicated principally by two factors—incomplete reporting and a lack of a centralized data collection and analysis system.

Traditionally, the law enforcement community has not assumed major responsibility for reporting, retrieving, or analyzing the incidence of fire or arson. This responsibility has been accepted chiefly by the fire service and insurance industry. As a result, only a small fraction of the actual occurrence of arson appears in national crime statistics.

In 1976, the National Leadership Seminars for Developing a Coordinated Attack on Arson specifically recommended that arson be declared a Part I crime in the FBI Uniform Crime Reports and that a better reporting, data collection, and data analysis program be developed and applied to arson.

Arson has been reported as a Part II offense in UCR since 1930. However, these figures reflect only arrest rates for arson and do not include estimated value of property damage. In October 1978, Federal legislation was passed mandating that arson be changed to a Part I offense in the UCR program, and legislation is currently pending before Congress which would mandate arson as a Part I offense on a permanent basis.

Henceforth, the volume of reported arsons, the number of persons arrested, clearances, types of property damaged, estimated value of property damage, and whether the structures were inhabited will be reported within the Part I offense classification. However, the total incendiary incidence will not be reflected in UCR, since suspicious and unknown-cause fires will not be represented.

The systematic study of the incidence and magnitude of arson has been severely hampered by the fragmentation and unsystematized approach employed in the collection and analysis of arson statistics. Improvements that have been made in this area should greatly enhance future research.

Legal Constraints in Information Exchange

The study of arson has been further complicated by certain legal constraints. For instance, there have existed certain legal prohibitions in the exchange of information between private industry and government. Laws governing privacy and confidentiality have played major roles in restricting the flow of information, especially between the private insurance industry and law enforcement. Insurers have been extremely guarded against possible liability and civil lawsuits stemming from violations of their clients' confidentiality and rights to privacy. There is currently a movement by the insurance industry to seek alternative solutions to this problem. One is the immunization of the insurance industry should it furnish relevant information to law enforcement relating to suspected arson. Only through this type of cooperative effort will law enforcement be in a position to respond appropriately and vigorously to the arson crisis at hand.

Furthermore, the researcher has also been restricted in his efforts to collect vital information on convicted arsonists. The exploratory efforts of behavioral scientists are contingent on the legal constraints authorizing them access to relevant information and to the personages they need to assess. The narrower the sample population they are permitted to investigate, the more significant the bias of their studies.

"Firesetting is often a symptom of a highly complex behavioral problem."

Focus, Conclusions, and Taxonomies of Previous Studies

A fifth problematic area in the systematic study of firesetting and arson behavior relates to the focus and conclusions of past research. Most of the literature on firesetting has been psychologically or psychoanalytically oriented. However, "intensive psychopathological studies of individual cases are rare. . . ." [23] Many of the published studies have been primarily comprehensive, descriptive, and statistical reviews of the psychopathology of convicted or hospitalized firesetters.

Consequently, with regard to the arsonist in general, "little concrete knowledge exists regarding his identity and motivation. A general review of the literature reveals different authors presenting different symptomatic characteristics and markedly different etiological hypotheses for the arsonist. In general, there is considerable overlap of concepts and terminology within these hypotheses, and sharp contradictions are evident in clinical diagnosis." [24]

The theories advanced concerning the behavior of arsonists, their purported motives, personality characteristics, etiological factors, and taxonomies or classification systems are many and varied. As a result, the researcher or investigator attempting to gain a clear understanding of firesetting behavior is often overwhelmed and frustrated by the seemingly myriad assembly of conflicting data.

Research projects have often centered on very selective populations, e.g., children, adolescents, adults, females, convicted offenders, and hospitalized patients, or have been divided into age groups, sex, and psychiatric disorders. As a result data gleaned from these studies have tended to confuse and contradict the finding of others. Levin also acknowledges that much of the literature tends "to deal with only one or two motives and/or a narrow age range." [25]

Firesetters have also been labeled, classified, and grouped at the researcher's discretion. Unfortunately, the multiplicity of systems which have evolved frequently confuse the investigator.

> "Classification systems both reflect and shape the distinctions which researchers make within their field of study . . . Consequently, categories of firesetters are often arbitrarily defined, and there is often a great deal of inconsistency in classification. Firesetters have probably most often been typed in terms of their motives for the firesetting act. . . ." [26]

A survey of the literature on incendiarism reflects only scanty reference to arson-for-profit. One of the most quoted studies was published by James A. Inciardi in 1970. However, his sample population of 138 convicted and paroled arsonists contained only 10 "insurance-claim firesetters." [27] Other noted researchers have studied the arson profiteer, but did not conduct in-depth analyses. Consequently, much of what is purportedly known about the characteristics of arsonists who set fires for fraud appears to be based on an insignificant number of known offenders.

The Psychology of Firesetting: A Review and Appraisal, issued in 1979 by the Center for Fire Research, National Bureau of Standards, presents an excellent overview of the psychological and psychoanalytic literature on firesetting, but also fails to explore arson-for-profit in any appreciable degree. The authors of the study, however, explain why arson-for-profit is generally excluded from the psychological and psychiatric discussion of firesetting. "There is little in the psychological or psychiatric literature about arson-for-profit, presumably because it is considered a rational act, and thus not of great interest from a psychological standpoint." [28]

Establishment of Cause and Intent

Since fire is a natural phenomenon and often accidental or the product of unintentional behavior, a lengthy and exhaustive investigation is frequently required before determining its exact cause. Often, such investigations are further complicated by the devastation of the fire itself or the inadvertent destruction of evidence by responding firefighters in their attempt to control and extinguish the fire.

Unless it can be proven that a fire was willfully and maliciously set, the crime of arson does not legally exist. Proof of arson, therefore, rests on the expertise of the investigator and his ability to ascertain the presence of malicious intent or premeditation.

The motif of the fire often provides clues as to the presence or absence of criminal intent. Factors often used to establish arson include the type of fire, its point of origin, the presence or absence of accelerants, the type of structure, the time of day the fire occurs, ownership of the building, others associated with the property, market value, existence of over-insurance, fire history of the structure, occupancy, and evidence of recent sale or title change.

Even after a thorough investigation, the arson investigator may not be able to establish arson positively. As a result, a significant portion of the fires experienced each year are labeled "unknown-cause" or "suspicious." Consequently, "the number of fires classified as incendiary significantly understates the actual amount of arson." [29]

Robert May, Executive Secretary of the International Association of Arson Investigators, was recently quoted as saying, "To detect and apprehend arsonists takes even more technical expertise than homicide." [30] This may very well be true in many cases, since an exhaustive investigation is often necessary to establish the fact that a crime has been committed. It is even more difficult to find an identifiable motive or to construct a personality from the ashes of a fire.

Motive v. Intent

Motive is some inner drive or impulse that causes a person to do something or act in a certain way. Basically, it is the cause, reason, or incentive that induces or prompts specific behavior. In a legal context, motive explains "why" the offender committed his unlawful act, e.g. murder, rape, or arson.

Though motive, unlike intent (willfulness), is not an essential element in criminal prosecution, it often lends support to it. Motive, for instance, frequently plays a crucial role in determining the cause of a fire, as well as the identity of the person or persons responsible for setting it.

Establishment of Motive

Establishing a motive generally assists the investigator in directing his investigation and focusing attention on likely suspects. However, searching the ruins of a conflagration for an identifiable motive may prove to be futile. Firesetting is often a symptom of a highly complex behavioral problem. Consequently, the actual motive for firesetting may not be readily apparent. In fact, it may be extremely difficult, if not impossible, to ascertain motives such as revenge, intimidation, or profit, especially if they are concealed or complicated by the lack of sufficient evidence or by the presence of distorted and conflicting clues. The arsonist may even purposefully disguise his firesetting to mislead the investigator as to his true motive. Sometimes, an identifiable motive may be lacking entirely. Thus, misinterpretation or premature and faulty interpretation of motive may prove to be fatal in resolving a case. Consequently, arbitrarily selecting one motive to the exclusion of all others may prove to be detrimental to that particular investigation.

Conscious v. Unconscious Motivation

Psychodynamically, it is conceivable that the firesetter may be fully aware of why he is setting a fire, only somewhat cognizant of the reason, or even totally unaware of his true motivation. In fact, when questioned about his behavior, the arsonist may be unable to account for his crime. Psychiatrist W. A. White concluded over 3 decades ago that the failure to consider unconscious motivation was "probably the cause of more inadequacies in the understanding of human behavior than any other one thing." [31]

Although a tenant torches his apartment complex to get back at the owner for raising the rent, the motive may be more than revenge. It may actually represent an unconscious desire to express hostility and destructiveness. Even the hired arsonist may be motivated by more than money. He may use firesetting as an instrument of revenge against society or as a way of expressing his sadistic tendencies. "When a person sets a fire, whatever the particular motive, he is trying to achieve something which is necessary or desirable to him at that moment."[32] The problem is that he may lack conscious awareness of why he is doing it.

Motivational v. Motiveless Firesetting

Motivational firesetting, also known as psychologically motivated arson, has traditionally been differentiated from motiveless firesetting (pyromania). According to Vreeland and Waller in *The Psychology of Firesetting: A Review and Appraisal*, motivational firesetters "generally are aware of some specific motive, or reason, for setting the fire. . . ."[33] They willfully and maliciously set fires for such reasons as revenge, spite, and financial gain.

Pyromaniacs, on the other hand, are said to lack conscious motivation for their firesetting; however, they are aware of their act. Fitch and Porter noted that "the lack of motive is a trademark of the pyromaniac."[34] Lewis and Yarnell in their study of pathological firesetters define pyromaniacs as "offenders who said they set their fires for no practical reason and received no material profit from the act, their only motive being to obtain some sort of sensual satisfaction."[35]

The pyromaniac is also said to be compulsively driven by an "irresistible impulse" to set fires. Although the true extent of pyromania is unknown, authorities today do not believe that it represents the predominant type of firesetting being currently experienced in this country.

Classification of Motivational Firesetting

There are probably as many motives for firesetting as there are firesetters. Vreeland and Waller have noted that the range of motives for the motivated firesetter is a striking feature of that category.[36] In an attempt to study systematically the arsonist, the researcher has most often classified him according to his motive. These classifications have often enhanced the investigator in telescoping his investigation.

The USFA, in an attempt to facilitate the understanding and identification of motivational patterns, has developed 24 various classifications with their own respective characteristics and motivational aspects.

These types of arsons have been systematized into five major headings:

1) Organized crime (loan sharking, extortion, strippers, and other crime concealment);

2) Insurance/housing fraud (overinsurance, antipreservation, blockbusting, parcel clearance, gentrification, stop loss, and tax shelters);

3) Commercial (inventory depletion, modernization, and stop loss);

4) Residential (relocation, redecorating, public housing, and automobile); and

5) Psychological (children and juveniles, pyromania, political, and wildlands).[37]

In the report, *Arson and Arson Investigation: Survey and Assessment*, the authors aggregated 16 different motives into 6 groups: (1) Revenge, spite, and jealousy; (2) vandalism and malicious mischief; (3) crime concealment and diversionary tactics; (4) profit and insurance fraud; (5) intimidation, extortion, and sabotage; and (6) psychiatric afflictions, pyromania, alcoholism, and feeblemindedness.[38] These groups were designed to facilitate the construction and exploration of arsonist typologies.

Wolford has noted, however, that in actuality very little concrete knowledge exists regarding the motivation of arsonists.[39] The literature on firesetting, nevertheless, is replete with motivational classification systems. However, the isolation of a particular firesetting motive may require weeks, even months, of investigative work, if it can be accomplished at all.

Pathological v. Nonpathological Motivation

The psychological and psychiatric literature on firesetting also distinguishes between pathological and nonpathological incendiaries. Pathological firesetting is believed to be irrationally motivated, whereas the converse is believed for nonpathological firesetting. Since it is commonly held that anyone who maliciously sets a fire is engaging in an abnormal act, it would appear on the surface that all arsonists are pathological. In fact, Gold has stated that "all firesetting is pathological."[40] However, behavioral scientists and clinicians who study firesetting behavior believe that some incendiarism is the result of rational decisionmaking. Arson-for-profit (fraud), for instance, has been perceived as a rational act. In other words, it is believed that the "torch" consciously, rationally, and premeditatively designs and perpetrates his crime. Rationally motivated firesetting also includes the use of arson for extortion, homicide, intimidation, revenge, social and political protest, rioting, sabotage, crime concealment, and even diversionary tactics.[41]

The irrational and pathological firesetter, however, typically manifests some degree of mental, emotional or personality disturbance, maladjustment, or defect. He frequently sets fires as an act of aggression, hostility, or revenge; to gain attention and recognition; to embellish his deflated sense of worth; to experience excitement; to obtain sensual or sexual satisfaction; or as a result of delusions and/or hallucinations. Generally included within this category are compulsive firesetters (pyromaniacs), excitement and attention-seeking arsonists, suicidal firesetters, psychotic firesetters, disturbed children and juveniles, revenge firesetters, and firesetters suffering from alcholism.[42]

Lewis and Yarnell have reportedly conducted the most comprehensive study on pathological firesetters to date. Their work, entitled *Pathological Firesetting (pyromania),* was published in 1951 and still serves as the authoritative source on the subject.

The following is their "Classification of Fire Setting Because of Mental Reasons":

1) Accidental or unintentional group—firesetters who set fires during a temporary, confused or delirious state or with a lack of judgment because of feeblemindedness (mental retardation).

2) Delusional group—psychotic firesetters who "set fires because so instructed by the hallucinated voicing God or other authority or . . . while under the delusionary influence of ideas of purification. . . ."

3) Erotic group—pyromaniacs and a large variety of firesetters having sexual perversions.

4) Revenge group.

5) Children's group—children who set fires "for excitement and mischief with the intention of extinguishing them before they get out of hand."[43]

They also noted that fires are deliberately set by psychotics, psychopaths, and "mental defectives" (below normal intelligence) for one or more of the following motives:

"a. As a reaction against a social order which they believe is operating against their interests

b. To wreak vengeance against an employer

c. As a revenge for injured vanity

d. As a jealous rage reaction

e. As an opportunity to perform heroic endeavors as a fire fighter

f. As a perverted sexual pleasure in the nature of a conversion of a sexual impulse into a special substitutive excitement."[44]

Pyromania represented the largest group (60 percent) within their study.[45]

Multimotives in Firesetting

It should be noted that "several motives may underlie an act of arson."[46] A review of the psychological and psychiatric literature on firesetting reflects that such behavior is often multidetermined. This factor may partly explain why so few arsonists are ever identified and why the solution rate in known arson cases is so low.

Revenge: The Underlying Motive

As previously noted, fire has been associated with love, aggression, hostility, destruction, sadism, revenge, and a host of other psychological factors. Though the exact psychic determinants of firesetting remain unanswered, a common denominator appears to be punitiveness or revenge. In fact, revenge seems to run like a thread throughout motivational arson. Lewis and Yarnell have also reported that "the element of revenge is never entirely absent,"[47] even in pyromania. Thus, it appears that firesetting conveniently serves as an instrument for venting aggressive and revengeful tendencies in many, if not all, firesettings.

The motives associated with fire setting are multiple, overlapping, and often disguised under a facade of distorted and pathological behavior. The investigator in striving to pinpoint responsibility for such destructiveness must, as a matter of investigative procedure, attempt to identify the true motivation underlying the act. Once the primary motive is isolated, the investigator is often better equipped to focus his investigation on likely suspects. However, motive alone does not necessarily or sufficiently differentiate one firesetter from another, since they often share common motives for setting fires. Some firesetters, however, are uniquely motivated and therefore are better candidates for profiling. Oftentimes their fires more readily reflect evidence of behavioral and psychological maladjustment.

The development of psychological profiles on such firesetters would then possibly enhance the investigator's ability to identify and apprehend them more swiftly. Profiling the firesetter will be discussed in the next issue of the *FBI Law Enforcement Bulletin.*

Footnotes

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SWEDEN

State Police
Not Police State

By JOHN R. KLEBERG
Deputy Chief
Ohio State University Police
Columbus, Ohio

NORWAY
FINLAND
SOVIET UNION
DENMARK
GERMANY
POLAND

In 1965, Sweden nationalized its police force, yet in many ways has endeavored to retain the influence and benefits generally associated with local control of police. This nationalization consolidated 554 different local police departments into 119 police districts. Today there are 118 districts, which are operationally controlled by a police chief. Also, there are 24 county districts encompassing other smaller police districts, with a chief administrator.

An interesting feature of this organizational design is the apparent lack of direct operational control by the county police chiefs over the districts in their counties, except for the county police executive's significant role in traffic supervision and coordinated crime control operations. How such coordination actually occurs is difficult to conceptualize. One can not, for example, equate it to the city police chief/sheriff relationship in the United States.

Both of these administrative levels have advisory councils of community lay members to provide police executives with information concerning police functions in the district or county. During a recent study tour in Sweden, it was my observation that police administrators were sensitive to views expressed by the councils, although they might have previously considered the councils merely as formalities required by law. Many chief administrators seem to appreciate their value as community representatives and as a significant communication channel between police and citizens. Although the influence of such a council on policy is primarily advisory, it was observed that police administrators were very cognizant of the need to be responsive to council ideas.

The final organizational level is the National Police Board (Rikspolisstyrelsen). The national board and its staff afford the districts general administrative direction and centralized services for purchasing, records, crime laboratories, training, and legislative review and analysis. The national board is composed of six members of Parliament, a representative from the police union, a representative of the union of civilian police employees, and the national police commissioner and his deputy.

The national commissioner and his deputy are appointed by the central government, the King in Council, for a term of 6 years. Since Sweden is a limited constitutional monarchy with a popularly elected Parliament, the King does not have administrative or political control over government units. With the exception of those police functions that directly relate to national welfare or security, the national commissioner does not become operationally involved in local police matters. It is also particularly interesting to note that lacking the commission of a serious crime, public servants, including police officers, cannot be removed from their positions. This program is intended to insure that public employees perform their respective duties without fear of retribution for "doing their job."

Since the police are national, they have responsibility for traffic enforcement, criminal law enforcement and investigation, national security, and the personal protection of the King, Prime Minister, and visiting dignitaries. For those limited matters concerning national security, personal protection, and crime control problems that transcend several districts, the national commissioner may exercise operational control. Laboratory services and law enforcement equipment in Sweden are modern, efficient, and maintained in good order. One interesting feature is a centralized multifrequency radio which permits communication between officers throughout the country.

Most impressive are the computerized information systems that enable law enforcement personnel to search automated files on stolen property, vehicles, fingerprints, and persons. It is important to note that Sweden has nearly 8½ million (1978) inhabitants and approximately 17,000 police personnel.

Another impressive automated information procedure involves the search of files containing only one latent fingerprint of arrested subjects. A 10-digit personal identification number, similar to our social security number, enables police officers to search a central file from the street or patrol car and receive detailed information on individuals he detains. Because they are needed for many socialized services, Swedish citizens permit such files and information exchange. However, they consider themselves and are, indeed, very free by our constitutional standards. Because of the volume of personal identifying information available to police officials upon request, fingerprints as personal identifiers do not have the same status in Sweden as they do in the United States.

It is important to make one additional general observation regarding the Swedish police organizational design. There are two distinct levels of police personnel—career officers and supervisors and career administrative personnel. Officers are generally recruited to enter the service as patrol or uniformed officers and may progress in rank to positions that include supervision, although this progression in rank is slower than in most departments in the United States. Opportunities for police administrative assignments and promotions for officers in this career path are increasing; however, most administrative personnel are recruited from outside the "rank and file."

Deputy Chief Kleberg

Donald G. Hanna
Chief of Police

Officers enroute to a driving exercise at an airfield examine the safety equipment in a patrol vehicle trunk. The exercise includes stopping vehicles and approach to violators while enroute.

Administration building at the Ulriksdal police school just outside of Stockholm.

A classroom building at the basic police training school at Ulriksdal outside of Stockholm. The school was originally a training center for the Royal Army and reminds one of a small college campus in the United States.

An alternate career path involves police administration. Candidates with law degrees are recruited from outside the service for a distinct program associated with police management. Legal education in Sweden differs from the United States in that it consists of 4½ years of university study. Study is devoted to law, but is equivalent to a baccalaureate program in terms of length of study. Individuals are recruited as police secretaries and eventually move through more-progressive administrative roles to police chief. Persons selected for this program receive specialized inservice training and also serve in a functional capacity with the public prosecutors and in the courts before being promoted to police chief.

Traffic officers receive a final briefing before they begin instruction on driver training. Officers are required to successfully complete a driver training course before they may operate a police vehicle

Training

How does all this translate into police training? Are officers prepared for their roles? Is training complete and comprehensive? There are, or course, many other general observations about the police structure, legal system, and society in general that are relevant in this regard. A Roman legal tradition, socialized society, and vast historical background are very relevant to police and public expectations in law enforcement.

It is desirable to distinguish between education and training as they relate to the preparation of police officers for their duties. Education, one could say, is the process of preparing the officer to consider variables, evaluate possible courses of action, and make judgments based on his educational experience. Training, however, prepares the police officer to perform in a certain manner under a given set of circumstances.

and a special and more extensive course before they are permitted to operate the vehicle with emergency equipment functioning.

A special marine patrol section is responsible for the waterways in the general Stockholm area. With a national police force the primary duty to enforce boating laws, conduct emergency water rescues, and provide other enforcement efforts on the water is the responsibility of this section.

When one examines and attempts to compare the law enforcement service of one country or Nation with that of another, it is difficult to determine what standards should be used. Law enforcement functions are unquestionably the product of history, culture, tradition, and law. It is, therefore, necessary to consider these various elements in making a comparison. Similarly, there are some aspects of the various agencies that might, from a practical perspective, actually defy comparison. Police titles, for example, are very difficult to translate.

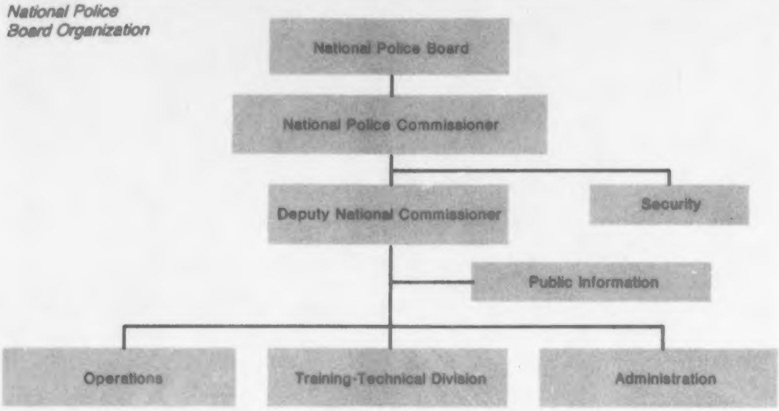
Under the direction of the National Police Board, two primary schools, located in Ulriksdal and Solna, prepare individuals for a law enforcement career. On September 1, 1979, the schools—both located in the Stockholm Metropolitan area—were elevated to a status which, in practice, permits some of the subjects taught to be considered equivalent to courses offered at a university. Such recognition by educational authorities permits discussion regarding the subjects between the police colleges and higher educational institutions. Although the importance of such an endeavor is realized by many of the police schools' instructional staff, most subject matter is unquestionably training.

For many years, the faculty of the police schools has been composed of experienced law enforcement personnel, civilian teachers, and university faculty members who instruct on a part-time basis. Basic training involves 43 weeks of instruction at Ulriksdal. Thereafter, the newly trained officer works for 1 year on uniformed duty and 1 year in plainclothes investigative assignment.

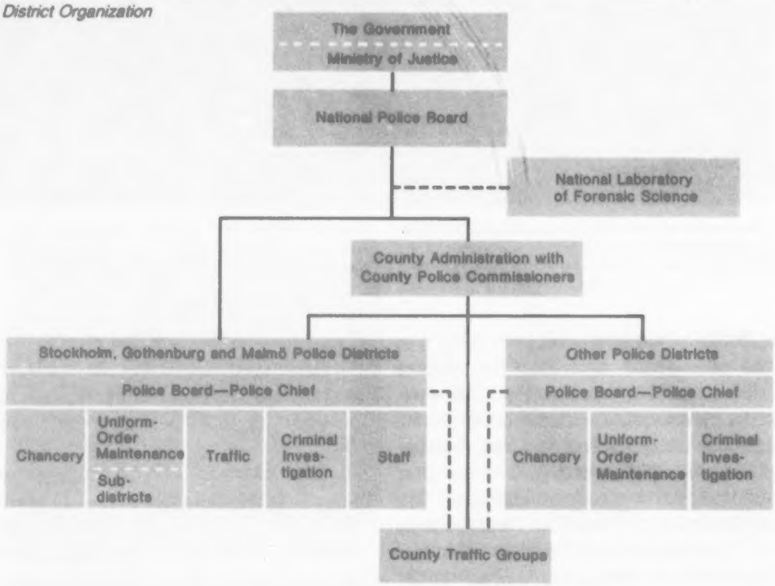
New personnel are eligible for appointment consideration between the ages of 18–35, and approximately 800 new recruits enter the school each year. These individuals are divided into three classes beginning at different times in the year. Attrition is reported to be about 15 percent during the basic training period.

The Ulriksdal school atmosphere is very similar to a small college campus in the United States. Students are casual in appearance and dress, class size is limited to 20 students, and class time is restricted to 40 minutes a session with 8 sessions a day. Emphasis is placed on a format of instruction, practice with an instructor's guidance, and rehearsal alone with a critique by an instructor. Practical exercises are used, with considerable emphasis placed on insuring that each officer responds and performs the same way under any given set of circumstances no matter where in the country they may be assigned—training by our definition.

National Police Board Organization


National Police Board
National Police Commissioner
Deputy National Commissioner
Security
Public Information
Operations
Training-Technical Division
Administration

District Organization


The Government
Ministry of Justice
National Police Board
National Laboratory of Forensic Science
County Administration with County Police Commissioners
Stockholm, Gothenburg and Malmö Police Districts
Police Board—Police Chief
Chancery
Uniform-Order Maintenance
Sub-districts
Traffic
Criminal Investigation
Staff
Other Police Districts
Police Board—Police Chief
Chancery
Uniform-Order Maintenance
Criminal Investigation
County Traffic Groups

Yet, there are also subject areas devoted to language—Swedish and English—law, government, basic psychology, sociology, and dealing with mental illness. Most of these "educational" courses are presented at a level comparable to first-year introductory courses in an undergraduate program. What is evident, however, is the time, care, and precision with which the instructional staff functions. Without exception, the teaching faculty are devoted to the task at hand—to insure that each officer understands the material being presented. This commitment seems, in fact, to pervade the entire culture and is found in high-quality work performance in many trades and occupations.

Without question, when observing the behavior of Sweden's police or by analyzing the training curriculum, it is evident that the Swedish police officer is devoted to maintaining order. Keeping the peace, insuring stability in social encounters, assisting citizens with any task, particularly as it relates to the government, is the accepted police role. Indeed, many officers and citizens alike see the police officer as the only trustworthy person immediately available who could be contacted at any time to resolve problems which otherwise might not be resolved. For these functions, the curriculum and instructional methods at the police schools meet every test. Calmness, patience, understanding, and other desirable human qualities were noted in every officer encountered.

In matters of crime control, however, the individual police officer is prepared to stabilize a situation and turn possible offenders over to officers specializing in investigative assignments. Since specialization is found throughout the police force, flexibility, discretion, independent decisionmaking as it relates to arrest decisions, investigation, and prosecution are not generally the prerogative of the individual officer.

Training often satisfies specialization, while eduction is crucial to generalization in police work. Possibly, the most notable divergence when comparing training and education of police officers in the United States and Sweden is the current emphasis in the United States on higher education prior to affiliation with a police agency. While most police departments in the United States appoint officers at age 21, appointment in Sweden can be at age 18; thus, the opportunity for formal education above the high school level might seem greater in the United States. It was reported, however, that a larger percentage of newly appointed officers in Sweden today have educational experience above high school.

The point, however, is that when the entire training and education of police officers takes place at one center over an extended period of time by the same faculty, the "officer product" will indeed be very similar. This is an objective of the training efforts when an individual first enters the Swedish police service.

Although nationalization of the police resulted in excellent training facilities with a well-qualified staff, there appears to be a desire and perceived need for training officers at the local level. In fact, a recent national commission has now made the recommendation that officers receive this training. Indeed, within some districts, excellent programs—some modest, some more extensive—are presently being conducted. Improvement of skills, refresher instruction on basic course subject areas, and interpersonal relations within the police structure occupy the course content within some larger municipal districts.

Summary

In Sweden, most officers are very well-prepared for order maintenance functions. The extreme variety in assignments in the country is, however, devastating. Officers may be assigned to perform in the congested cosmopolitan area of Stockholm at one time or in a small rural area of Sweden with a substantially smaller population at another time. The need to relate to the community has been realized and has resulted in the assignment of "block police" in some areas of the country—our concept of team policing.

One might easily conclude that many problems associated with the delivery of police service and the preparation of officers for that delivery in Sweden and the United States are very similar indeed. There are many officers in both countries who are very much the same—idealistic at first, cynical as time progresses, discouraged with the system in later years. In both countries many officers become suspicious of community members who, in turn, are suspicious of officers whom they perceive to be officious.

Public law enforcement is a difficult task in Sweden and the United States. Basic, advanced, and specialized training must prepare the officer for a complex, demanding, and challenging set of responsibilities that are very fluid. An appropriate mix of courses at the university level and instruction in necessary skills at a police school, constantly refreshed and augmented by local training endeavors in response to recognized need, would best serve the police and the community in both countries.

So it seems the police and the community in both countries continue to be served best by an appropriate mix of university level courses and solid instruction in police skills. FBI

105 Police Officers Slain

During 1979, 105 local, county, State, and Federal law enforcement officers were killed feloniously in the United States and its territories. This represents a 13-percent increase in the number of police officers killed when compared to 1978, during which 93 officers were slain. Of the 105 felonious killings, law enforcement agencies have successfully cleared 98 of the officers' murders.

Firearms were used in 95 percent of the slayings: 77 officers were killed by handguns; 17 by rifles; and 6 by shotguns. Four officers were slain by knives or other cutting instruments, and one was killed by a bomb.

Of all the officers killed in the line of duty last year, 19 were attempting to thwart robberies or in the pursuit of robbery suspects, 7 were attempting to apprehend burglary suspects, and 22 were attempting arrests for crimes other than robbery or burglary. Seven of those 22 were attempting narcotics-related arrests. The remainder were slain while handling disturbance calls, enforcing traffic laws, investigating suspicious persons, dealing with prisoners or mentally deranged persons, or in ambush-type situations.

Geographically, 48 officers were slain in the Southern States, 23 in the Western States, 16 in the North Central States, 13 in the Northeastern States, 3 in Puerto Rico, and 2 in Guam. FBI

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Effects of Organizational Design on Communication Between Patrol and Investigative Functions

(Conclusion)

By LT. COL. JOSEPH J. STAFT
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Part I of this article focused on the various organizational structures of police departments which can affect the level of cooperation between patrol and investigative personnel. As stated, each design has inherent advantages and disadvantages. The conclusion of this article will consider approaches which can be taken to induce and foster cooperative efforts between members of a department.

The Human Relations Approach

Human relations-oriented theoreticians minimize the importance of rational, formal organization and emphasize social relationships among workers as factors conducive to efficiency. Perhaps the founding fathers of the human relations approach to organization and management were Professors Fritz Roethlisberger and William Dickson of the Harvard School of Business. In their much-publicized Hawthorne study,[20] they found relationships between workers, ideals, personalities, beliefs, habits, and tradition to be

An investigator and uniformed officer feed information into a computer.

greater influences on productivity than physical working conditions.[21] They also found that the small work group exerts a great deal of pressure on the individual employee to conform to the group standards of production levels. This was found to be true, even if the individual's nonconforming behavior or increased productivity would result in financial benefits for the entire group. If these findings can reasonably be transferred to address the problem of patrol-investigative cooperation, it would seem that the willingness of a police officer to work toward organizational goals, including willingness to share information, would be more dependent on his values, attitudes, and relationships with other members of the department than on the nature of the formal organizational structure. It would appear reasonable to suspect that if group attitudes or norms within a patrol unit opposed cooperation with the investigative units, great pressure would be exerted on an individual patrol officer desiring to assist an investigator by volunteering helpful information. Conversely, if established relationships between the patrol and investigative groups were harmonious and cooperative, the individual officer would be supported and encouraged by his fellow workers to assist the detectives' investigative effort. Again, cooperation is a two-way street, and the same reasoning applies to investigators supplying information to their uniformed counterparts. The human relations school would argue that the influence of the group is stronger than organizational rewards encouraging exchange of information. Thus, in an effort to improve patrol-investigative communications, the administrator should consider ways to alter group norms and attitudes, depend on informal as well as formal leadership to encourage cooperation, and not rely exclusively on formal organizational channels to process information.

Modern Approach

The modern or revisionist school of organization attempts to synthesize the classical and human relations schools. Revisionists recognize that various types of social groups interact and may or may not cooperate or share the same values. They examine interrelationships of the organization and its environment, the structure of informal groups, and question the value of material rewards in improving employee morale and performance.[22] In general, they recognize that organizational theory must take into account such factors as purpose, goal, status, power differentials, and hierarchy.[23]

"Mutual exchange of criminal information benefits both investigative and patrol units. . . ."

Within the parameters described, modern theorists differ somewhat in their approach to organizational design. The works of Professors Paul R. Lawrence and Jay W. Lorsch [24] of the Harvard University Graduate School of Business Administration and Dr. Jay W. Galbraith [25] of the European Institute for Advanced Studies in Management have provided the basis for the purpose of relating modern organizational techniques to the central concern of improving communications between police patrol and investigative personnel.

The Lawrence and Lorsch theory of organizational design is known as the Differentiation-Integration (D&I) model.[26] They acknowledge the need for division of labor among a variety of bases, but associate trade-off costs and benefits with each form of specialization. Each subunit develops characteristics which are consistent with its mission.

The concept of differentiation can perhaps be clarified by comparing operational characteristics of a patrol unit with those of an undercover intelligence unit. In the patrol unit there must be a heavy emphasis on military discipline to permit rapid and effective response to emergency situations. Dispositions of recurring situations are standardized by formal rules and procedures, and freedom of movement is restricted because the patrol officer is usually responsible for enforcement activities within strictly defined beat boundaries. The emergency nature of patrol service requires a relatively short-time orientation toward its problems. In contrast, the intelligence unit must adopt relatively informal methods of operation, avoid the standardized appearance and behavior styles which would compromise their undercover missions, be free to travel or react spontaneously to follow the course of investigations, and assemble information and build cases over a long period of time. The mission of the patrol force dictates high visibility; the opposite is true of the intelligence unit. The differences, of course, are more numerous than those just described, but the comparison serves as an example of differentiation required by the nature of the tasks each group performs.

The problem of achieving integration between differentiated units becomes crucial. Each group evolves its own task-related characteristics and different points of view which complicate the coordination process. This often generates serious intergroup problems symptomized by destructive competition, secretiveness, and hostility. The integration process must cope with these issues to achieve unity of effort.[27]

There is a strong inverse relationship between differentiation and integration. When units (because of their particular tasks) are highly differentiated, it is more difficult to achieve integration than when the individuals have similar ways of thinking and behaving.[28] This accounts for the relative ease with which adjacent patrol districts may coordinate activities, as opposed to the difficulty encountered in trying to achieve close cooperation between uniformed patrol and plainclothes investigative units.

Lieutenant Colonel Staft

Col. Myron J. Leistler
Chief of Police

The D&I model then focuses on the degree of differentiation required among units responsible for varying tasks and the degree of integration needed. In considering the integration issue, the police manager must determine which units need to work together and how tight the requirement for interdependence is. If, as in the case of patrol and investigative functions, there is a requirement for close cooperation, emphasis must be placed on the problem of achieving high integration.

The normal means of integrating activities of subunits within a police organization is through the hierarchial structure. As subunits become more differentiated, however, the formal hierarchy is no longer sufficient to provide necessary coordination, process the required amount of information, or achieve unity of effort. Additional integrative devices must then be built into the system.

Galbraith describes a wide range of integrative devices which are used by various organizations. Included are formal rules, programs and procedures, hierarchy, creation of lateral relations through direct contact or by creating liaison roles, task forces, and teams.[29] A final method of aiding the integration process is through use of lateral transfers. While Galbraith does not relate these integrative devices to police operations, their applicability is clearly apparent.

The simplest way of coordinating interdependent subtasks is to specify the necessary behaviors in advance of their execution in the form of rules or programs.[30] Police departments coordinate information and activities required for successful investigations by creating formal rules stated in a procedure manual. A typical procedure would indicate which unit is responsible for the preliminary and follow-up investigations, what information must be included on the offense report, how many copies of the report are to be made, how they are routed, etc. These rules are adequate to direct much of the information flow required for routine investigations. However, to rely solely on the use of rules and procedures as a method of providing the required information exchange between patrol and investigative officers presumes that it will be known in advance what information is needed by each. In all but the simplest investigations, this is not the case.

The next method for processing information between units is through a formal hierarchy. The manager of each unit is the point through which all information flows into or out of the unit. He decides which information should be transmitted up or down the chain of command. Besides being able to control the information exchanged, he knows who is feeding information into the system and can bestow appropriate rewards. Hierarchial communications must travel up the organization to a common manager, then back down to the intended receiver. Hierarchy is used in addition to, not instead of, rules and procedures. Repetitive situations are covered by rules, exceptions by hierarchy.[31]

The weakness of this system is that the information channels quickly become overloaded. Delays result, and information is received too late to be useful. The originating officer may receive no feedback on the value of his input and consequently fails to volunteer information in the future.

To prevent overloading of hierarchial channels, lateral information channels must be developed. The simplest form of lateral relations is direct contact between two people who share a problem,[32] that is, simply permitting direct contact and dialog between officers assigned to patrol and those assigned to investigations. Yet, simply saying that direct communication is permitted does not assure that it will happen. Organizational impediments discussed earlier inhibit meaningful exchange, e.g., officers assigned to different time periods and physical locations, long-standing hostilities between organizational units, etc. These barriers must be removed, or at least reduced, if useful exchange of information is to increase. Additionally, an officer possessing relevant information simply may not realize that it could aid in another's investigation, or the officer needing certain information may not know which, if any, fellow officers might be able to provide it. All too often, when investigative and patrol units are separated, investigators fail to solicit information actively and patrol officers fail to volunteer it. Thus, no communication takes place. Mutual exchange of criminal information benefits both investigative and patrol units in completing their missions, but if the organization does not allow for direct exchange between members of individual units, little communication is likely to occur.

Liaison roles may be created to handle important interunit contacts.[33] Each patrol unit might have one representative who meets daily or weekly with members of the investigative unit, or an officer assigned to the detective bureau might appear at patrol officers' briefings once a week to discuss mutual problems or transmit and receive information of common interest. Psychologist Rensis Likert suggests creation of a "linking pin" role to facilitate integration among interrelated units.[34] The incumbent of such a role would be a member of both the investigative and patrol units and would promote common purposes and attitudes and provide a point for exchange of information.

British police forces have created a kind of liaison role in the form of a "collator." The position of collator was introduced in England with the advent of unit beat policing in 1967. The function of the collator is to collect, assess, store, and disseminate local criminal intelligence. He is to gather information previously possessed only by individual officers and make this knowledge available to all members of the department. The primary focus is on assembly of intraunit criminal information, but he also provides a valuable service in making this information available to investigative and other patrol units. The British collator is a sworn officer, but at least one American police department has assigned civilian personnel to the role.[35] The collator serves to exchange information with centralized investigative personnel, outside law enforcement agencies, and among locally assigned patrol officers.

To gain even greater capability for exchanging information between patrolmen and investigators, they can be assigned to the same organizational unit. This can be done on a temporary basis by creating task forces, or more permanent teams can be formed. The task force or team under the direction of a single superior can be responsible for both the patrol and investigative function.

"The normal means of integrating activities of subunits . . . is through the hierarchial structure."

Task forces are usually created to attack specific problems. They may have full-time or part-time members and are temporary groups, existing only as long as the problem remains. When a solution to the problem is reached, or the problem no longer exists, each participant returns to his normal assignment.[36] Task forces, comprised of both patrol and investigative personnel, may be created to address such problems as a sudden increase in residential burglaries in a particular area, a regional gang problem, or an annual increase of armed robberies during the Christmas holiday season. The important point is that the task force functions as one unit with a specific, common purpose. Briefings should include both the uniformed and plainclothes officers, and all members should meet at a central location to provide the opportunity to exchange information. Relationships developed between individual patrol and investigative officers can remain useful long after the task force is terminated.

A detective and patrol officer exchange information regarding a case.

A more permanent means of establishing strong personal and operational relationships between patrol and investigative personnel is the adoption of a team policing model. The term "team policing" has come to have many meanings. For this purpose, it means combining the patrol and investigative functions within one geographically based organizational

Cooperation between patrol and investigative forces is an integral part of departmental operations.

unit. An essential element of the team policing programs in effect in seven cities studied by the Police Foundation [37] was maximum interaction among team members, including close internal communication among all officers assigned to area-based teams. The Police Foundation reported that interaction was evident among team members in all of the cities studied, but considerable varying degrees existed. Critical factors which influenced the exchange of information were regularly scheduled team conferences, the nature of the physical building facilities shared by team members, and the behavior of team leaders. When the team leader encouraged sharing of information and was able to instill a sense of teamsmanship, the members communicated more frequently and informally.[38] The most comprehensive study of the effectiveness of team police techniques attempted to date was initiated by the Cincinnati, Ohio, Police Division in March 1973. Initial observations of team operations were encouraging, particularly as related to interaction among team members cooperating in criminal investigations. After 6 years' experience and evaluation of this investigative structure, it has become apparent that additional mechanisms are required to facilitate exchange of criminal information between investigators assigned to different teams.

As with all forms of organization, there are certain costs attached to self-contained teams.[39] Due to the wide scope of functional responsibilities assigned to the team, a reduction in levels of specialized skills may result. Functional specialists assigned to generalist teams have less opportunity to interact with other specialists of the discipline, thus less opportunity to exchange current information related to their function. Expensive equipment, practical for a functionally centralized unit, is not available to a generalist team. Opportunity for a career path within one functional area is reduced.

A certain amount of duplication of effort is likely to occur when responsibilities are divided among teams. If a department opts for area-based, self-contained teams, it would seem prudent to maintain a small, centralized core of personnel to collate information pertinent to interteam crime patterns, trends, and activities.

The final form of organizational structure designed to force integration to be discussed here is matrix organization. This form of organization requires that dual reporting relationships be established. For instance, an investigative unit might be assigned to an area-based precinct station. Under a matrix system, the supervisor of that unit would report to, receive direction from, and be evaluated by both the precinct commander *and* the investigative bureau commander. The supervisor is therefore required to coordinate his activities and information with both the investigative bureau and the patrol precinct. Variations of the matrix might establish this dual reporting role higher, e.g., at the precinct commander level, or lower, e.g., at the individual investigator level.

Seen through the eyes of a police administrator who has been seasoned by the classical principles of organization formulated by Gulick, Urwick, Mooney, et al., the dual reporting structure appears to be a blatant violation of the "sacred" principle of unity of command. Upon reflection, however, the matrix is not too different from the staff or functional supervisory relationships used by many police agencies. Secondary reporting relationships are merely strengthened and formalized. This form of organization has been proven effective in many private sector organizations, especially in the aerospace industry, where there is a need for tight integration among interdependent subunits to accomplish tasks.

Use of Lateral Transfers

Galbraith reports on the use of lateral transfers as an integration device.[40] His comments present significant implications for police managers seeking ways to improve patrol-investigative communications. Lateral transfer, or job rotation, has been used for some time by both private and public sector agencies as part of management development programs. Findings of studies conducted at M.I.T. have shown the effect of lateral transfers on interdepartmental (relationships between subunits within the same organization) communications. While the studies focused on managers of organizations, they suggest that similar techniques might be equally effective for improving communications among first-line operational personnel. The findings of one study clearly indicate that managers having interdepartmental experience communicate laterally to a larger number of colleague managers than managers not having interdepartmental experience.[41] Similar findings were reported for a Japanese R&D organization.[42] In the second study, it was discovered that the effects of the transfer diminish with time. People transferred 10 years ago behave the same way as individuals who have had no experience.

> **"There is a strong inverse relationship between differentiation and integration."**

A second finding is that individuals with interdepartmental experience use more informal means to communicate when engaging in lateral contact. They will use a telephone call, face-to-face contact, or an informal meeting. Those not having the experience are more likely to use a memo. Therefore, the transfer increases probability of problem-solving dialog rather than less effective one-way communication. Finally, the studies indicated that relationships established by managers with interdepartmental experience tend to be reciprocal, that is, they receive as many contacts as they initiate. Reciprocal relationships are the most satisfying and are likely to be the most productive for the organization.

Lateral transfers improve communications by reducing impersonality. It is much easier for an individual to call someone he knows to solicit or volunteer information than to address a memo to an impersonal organizational unit. That is why the effect of transfer diminishes over time. Promotions, transfers, and turnovers cause loss of personal contact.

Galbraith concludes that lateral transfers result in more lateral contacts and more effective contacts. In addition, the organization gets something for nothing if it already uses lateral transfers. The only thing needed is to transfer personnel often enough to offset the diminishing time effect. If lateral transfers are not used currently, they should be evaluated against the costs of lost specialization and lost productivity due to learning time.

Frequent rotation between patrol and investigative units has not been the general custom in most police departments. Uniformed officers often welcome a transfer to the detective bureau, but the reverse is seldom true. In many departments, civil service regulations protect the detective's tenure in the investigative unit. Even if not prescribed by formal rules, long-standing practices and custom usually militate against transferring personnel out of the detective unit, except those transfers caused by promotion or imposed as a disciplinary measure.

One-way transfers or "creaming" of the most experienced and able officers out of the patrol unit consequently leave a greater proportion of inexperienced or less competent officers in the patrol branch, reinforcing the perceived image of the patrol force as the "dumping ground" for the incompetent or a place to work only until one can arrange a transfer out. This phenomenon hardly gives credibility to the oft-repeated phrase that the patrol force is the "backbone of the police department."

As long as the detective enjoys higher prestige and pay than his uniformed counterpart, this situation is not likely to change. Although certain task characteristics require that the detective be given greater flexibility in his work, nothing appears inherent in his job that would justify higher pay for an investigator than for a patrol officer. In fact, according to Wilson, the detective works in a less hostile, more certain environment than his uniformed coworker.[43] When assigned to an investigative unit, the officer has a better idea of what is expected of him and enjoys greater public support than when he is assigned to the uncertain patrol task of "keeping the peace." This would seem to indicate that financial incentives are not necessary to induce officers to accept investigative assignments and in fact serve to widen the "prestige gap" between the two roles.

The pay differential issue is raised here to illustrate the effect it has in discouraging routine lateral transfers. *Municipal Police Administration* endorses rotation of vice-control personnel to maintain undercover effectiveness and transfers out of the detective bureau to prevent it from becoming a "sinecure for the incompetent." The text suggests that intradepartmental transfers should not necessarily be a reflection of a police officer's inability to do investigative work.[44] In the same volume, however, it is recommended that when the officer is returned to uniform assignment, he lose the "incentive" pay he enjoyed while assigned to investigations.[45] The loss of pay hardly seems congruent with the idea that the officer was performing his work effectively and is not being penalized by the transfer.

If use of lateral transfers is to be an effective means of improving cooperation and communications between the patrol and investigative forces of a police department, status and pay differentials must be reduced or eliminated, and officers must not be stigmatized by a transfer from an investigative to a patrol assignment.

Summary

The problem of inducing cooperation between the patrol and investigative forces is long standing and is present in varying degrees in all police agencies. Interrelated factors contributing to the situation are organizational problems of structure, competition, and assignment of responsibility; social problems of role and status differentiation and subcultural values; and maintenance of adequate information systems.

Organizational structure affects the level of cooperation among members of an organization. The organizational approach most commonly observed in police departments is the classical design. Tasks are divided among subunits in the organization and coordination is achieved through a formal hierarchy. Each base of specialization (purpose, process, clientele, area, and time) has inherent advantages and disadvantages to be considered when designing a structure which will permit adequate communication to occur between interdependent subunits. Human relations theorists minimize the importance of formal structure and concentrate on individual and group norms as means for inducing cooperation. Modern practitioners of organization design attempt to synthesize the classical and human relations approaches.

The patrol and investigative functions develop differential characteristics due to the nature of their tasks. As organizational subunits become more differentiated, integration becomes more difficult to achieve. High integration is necessary if high interdependency exists between units.

Integrative devices include use of rules, procedures, and programs; hierarchy; lateral relations, including direct contact; liaison rules; task forces; teams and matrix structure; and lateral transfers.

There is no one best way for a police department to organize which will insure effective communication between patrol and investigative elements. All forms of organization are not equally effective, however, and each police executive must consider the trade-off costs and benefits attached to the described organizational techniques when searching for the optimal design for his own agency. **FBI**

Footnotes

[20] Fritz Roethlisberger and William Dickson, *Management and the Worker* (Cambridge, Mass.: Harvard University Press, 1939).

[21] John C. Buechner, *Public Administration* (Belmont, Calif.: Dickenson Publishing, 1968), pp. 27–29.

[22] Ibid., p. 35.

[23] Warren G. Bennis, *Changing Organizations* (New York: McGraw Hill Book Co., 1966), p. 70.

[24] Paul R. Lawrence and Jay W. Lorsch, *Developing Organizations: Diagnosis and Action* (Reading, Mass.: Addison-Wesley Publishing Co., 1969).

[25] Jay Galbraith, *Designing Complex Organizations* (Reading, Mass.: Addison-Wesley Publishing Co., 1973), p.2

[26] Lawrence and Lorsch, p. 11.

[27] Ibid., p. 6.

[28] Ibid., p. 13.

[29] Galbraith, op. cit.

[30] James G. March and Herbert A. Simon, *Organizations* (New York: John Wiley, 1958); Richard Cyert and James G. March, *A Behavioral Theory of the Firm* (Englewood Cliffs, N.J.; Prentice-Hall, 1963); Galbraith, p. 10.

[31] Galbraith, pp. 11–12.

[32] Ibid., p. 18.

[33] Ibid.

[34] Rensis Likert, *New Patterns of Management* (New York: McGraw-Hall Book Co., 1961).

[35] Cincinnati, Ohio, Police Division, Community Sector Team Policing Model.

[36] Galbraith, p. 51.

[37] Lawrence W. Sherman, Catherine H. Milton, and Thomas V. Kelly, *Team Policing* (Washington, D.C.: Police Foundation, 1973).

[38] Ibid., p. 4.

[39] Galbraith, pp. 27–28.

[40] Ibid., pp. 49–50.

[41] William M. Newport, "The Interdepartmental Transfer: An Integrative Strategy," (Cambridge, Mass.: M.I.T., 1969), unpublished M.S. thesis, in Galbraith, p. 49.

[42] M. Kanno, "Effects on Communication Between Labs and Plants of the Transfer of R & D Personnel" (Cambridge, Mass., M.I.T., 1968), in Galbraith, pp. 49–50.

[43] James Q. Wilson, *Varieties of Police Behavior* (New York: Atheneum, 1970), p. 68.

[44] *Municipal Police Administration*, Ester M. and George D. Eastman, ed., (International City Management Association, 1971), p. 161.

[45] Ibid., pp. 142–143.

Search of Motor Vehicles Incident to Arrest

(Conclusion)

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

Part I of this article examined the general principles regarding the justification and scope of a search incident to arrest. It was noted that two U.S. Supreme Court decisions, *United States* v. *Robinson*[22] and *Chimel* v. *California,*[23] respectively, established that a search incident to arrest is justified by the *custodial* nature of the arrest itself, and that once initiated, the scope of the search includes the *person* arrested and the *area within the arrestee's immediate control.*

The purpose of the second part of this article is to examine the manner in which those two concepts have been applied to motor vehicle searches by the courts.

The automobile began its life of crime in the United States at an early age. Not long after its invention, the horseless carriage began to emerge as an instrumentality which increased the opportunity and range of the criminal, as well as the speed of his flight. By the 1920's, the automobile was figuring prominently in the law enforcement problems of the day; so much so, that in 1925 the U.S. Supreme Court recognized the "automobile exception"[24] to the warrant requirement of the fourth amendment, which allows the warrantless search of mobile vehicles if there exists probable cause to believe that evidence or contraband is located inside.

This "Carroll Rule" search—for it quickly assumed the name of the case which spawned it—was not, and is not, synonymous with the search incident to arrest. In fact, it is fair to say that the new doctrine had little impact on local law enforcement for several years for at least two reasons. First, it was, after all, the product of a Federal case in the days when the fourth amendment to the U.S. Constitution, with its attendant exclusionary rule, was not applicable to

". . . a custodial arrest justifies a search of both the person and the area within the arrestee's immediate control, regardless of the offense."

the States;[25] and second, given probable cause to believe that evidence or contraband was located in a mobile vehicle—the essential elements of a "Carroll Rule" search—local authorities would more than likely effect an arrest of the automobile's occupant(s) and search the vehicle *incident to the arrest.*

After all, the scope of such a search was quite broad, generally considered to cover not only the arrestee, but the "place" where the arrest occurred or the area within his "possession" or under his "control."[26]

Perhaps the most significant limitation was that which determined when such a search could occur. Inasmuch as the most frequently stated rationale for allowing a search incident to arrest was the obvious need to seize weapons and prevent the destruction of evidence, many courts apparently reasoned that where there was little likelihood that weapons or evidence were present, no search was permissible. For example, in arrests for traffic offenses a search would ordinarily not be permitted. Although some courts would allow a search for weapons,[27] based on the recognition of the potential danger to the officer in any arrest situation, few would allow a further search for *evidence.*[28]

Stated simply, the authority to search was usually determined by the probability that evidence was connected with the offense for which the arrest occurred. Once the authority to search was established, the ensuing search was relatively unlimited. Such was the general state of the law from at least the 1920's to the latter part of the 1960's.

Ironically, within the 4-year period from 1969 to 1973, the situation was precisely reversed. *United States* v. *Robinson*[29] *increased* the frequency with which searches incident to arrest might occur, while *Chimel* v. *California*[30] *decreased* the scope of the search once commenced. The impact of these changes on motor vehicle searches has been notable.

To Search Or Not To Search

In *United States* v. *Robinson*, the Court stated:

"The authority to search the person incident to a lawful custodial arrest, while based upon the need to disarm and to discover evidence, does not depend on what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect. A *custodial* arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification."[31] (emphasis added)

While *Robinson* and a companion case decided the same day, *Gustafson* v. *Florida,*[32] establish that a lawful *custodial* arrest automatically justifies a search of the *person* incident to the arrest, and regardless of the offense, neither specifically addresses the question of whether this *per se* authority to search extends to areas beyond the person.

Some courts have taken this to mean that the authority to search which is triggered automatically by the custodial nature of the arrest is limited to a search of the person. Those courts would apparently apply a separate rule to a search of the area within the arrestee's immediate control and hold that the area search is justified only when there is a probability that evidence is connected with the arrest offense.

For example, in *United States* v. *Lewis,*[33] the defendant and a companion were stopped in his pickup truck by police who were investigating a "drunk complaint." In addition, the officers noted the vehicle had a defective taillight and a loud muffler. As the officers approached the pickup to issue a citation, they observed in an attached camper several boxes labeled "danger electrical blasting caps." The occupants were ordered out of the truck and asked about the boxes. After denying knowledge as to the cartons, they were arrested, searched, and placed in the police car. The camper was then searched and the boxes—later determined to be stolen—were seized.

The U.S. Court of Appeals for the Sixth Circuit stated:

"In neither *U.S. v. Robinson* nor *Gustafson v. Florida* was any issue raised as to a warrantless search of the vehicle (as opposed to the person) subsequent to arrest for a traffic offense. . . . we would . . . decline to uphold the warrantless search of the camper as one properly conducted incident to an arrest for a traffic offense."[34]

The Court did, however, uphold the search as incident to the arrest for possession of burglary tools.[35]

"The permissible scope of the search has been construed broadly enough to include portions of the interior of a motor vehicle. . . ."

The opposite position was taken by the U.S. Court of Appeals for the Fifth Circuit in *United States* v. *Marshall.*[36] Defendant was arrested for driving with a defective muffler and was observed by the officer "doing something under the front seat." A search under the front seat disclosed a gun. The court said:

"Appellant concedes that on the basis of the recent decisions in *United States v. Robinson* . . . and *Gustafson v. Florida* . . . , search of his person and of the area within his immediate control was permissible, incident to the lawful custodial arrest, to preserve evidence or prevent flight, or for the personal protection of the arresting officers." [37] (citations omitted)

The court upheld the search.

The position which most courts appear to be following today is that a custodial arrest justifies a search of both the person and the area within the arrestee's immediate control, regardless of the offense.

It must be noted that the U.S. Supreme Court in *Robinson* and *Gustafson* did not in any way attempt to describe those offenses which may or may not justify a custodial arrest. Those determinations are left to the individual States. Furthermore, State courts may choose to apply a stricter rule within their respective States by relying upon provisions in their States' constitutions.[38]

Scope of the Search

In a 1967 article published in the FBI Law Enforcement Bulletin and dealing with motor vehicle searches, the author stated, ". . . the search incident to arrest is perhaps the dominant method of securing physical evidence of crime." [39]

An assessment of the situation 13 years later produces a different result, with the search incident to arrest playing a lesser role in automobile searches. Perhaps one reason for that development is the recent treatment by the U.S. Supreme Court of alternative search doctrines.[40] But another, and perhaps more significant factor, is the narrowing of the permissible scope of a search incident to arrest by the Supreme Court in *Chimel* v. *California.*[41]

By defining the permissible scope of the search as "the arrestee's person and the area 'within his immediate control' . . ." [42] *Chimel* clearly overruled prior case law which allowed a full search of the "place where the arrest occurred" or the area considered to be in the "possession" or under "control" of the person arrested. However, the case itself provides little guidance as to how, if at all, its principles are to be applied to motor vehicle searches. A look into court cases following *Chimel* is necessary to measure its impact on car searches.

A few courts have taken the position that *Chimel* does not apply to motor vehicles. In *Preyer* v. *State,*[43] for example, the court upheld the search of an automobile incident to the arrest of suspects a short distance away for burglary, saying:

"In our judgment, *Chimel* v. *California* . . . can be distinguished for the fundamental reason that, in the present case, we are concerned with the search of an automobile, whereas in Chimel the arrest and search occurred in a residence." [44] (citations omitted)

At the opposite end of the spectrum, none of the courts has apparently taken the position that *Chimel* applies to vehicles strictly and precludes a search of any portion of the vehicle incident to arrest.

A middle position seems to be the prevailing rule today, applying *Chimel* to motor vehicles but in varying degrees of strictness with respect to the scope of the search.

Factors which the courts have considered in determining the proper scope of the search are the location of the arrestee at the time of search and the accessibility of the vehicle to him, as well as the area of the vehicle searched.

(1) Location of arrestee—The courts generally accept the proposition that when police officers make a custodial arrest of a vehicle occupant, the arrestee is removed from the vehicle. Typical, perhaps, is this statement of the Alaska Supreme Court in *Daygee* v. *State:*[45]

"The search of the vehicle should not depend on whether or not the person or persons arrested are in the car or have been recently removed from the car for purposes of effectuating an arrest. We reach this conclusion because it would be an unusual situation for a police officer not to remove a suspect from a car while going through the arrest process, both for reasons of safety and because of the physical limitations of effecting an arrest in such a confined area." [46]

". . . removal of the arrestee from the scene will likely remove any portion of the vehicle from the permissible scope of the search."

Once the arrestee is removed from the vehicle his location in relation to the vehicle at the time of the search could be significant. In *United States* v. *Frick*,[47] the U.S. Court of Appeals for the Fifth Circuit approved the seizure and immediate search of an attache case lying on the rear seat of the vehicle at the time of Frick's arrest. The record indicated that Frick was no more than 2 feet from the automobile and the court concluded:

"The automobile and the attache case (lying on the back seat) were within the area of Frick's immediate control. The attache case was not isolated or hidden in some distant room of the house or securely locked in the trunk of the car. It was in plain view and readily accessible to Frick." [48]

On the other hand, several cases have held that if the arrestee is placed in a police car or otherwise removed from the immediate vicinity of the subject vehicle, a search is not permissible. In *United States* v. *Edwards*,[49] the Court held:

"At the time the officers searched the car, Edwards was securely locked in the rear of the patrol car. He was obviously incapable of retrieving weapons or evidence from anywhere in the searched vehicle. . . ." [50]

Thus, removal of the arrestee from the scene will likely remove any portion of the vehicle from the permissible scope of the search.

(2) Area of Vehicle Searched—The courts have considered and approved a variety of searches incident to arrest, including a search of the area under the front seat;[51] behind the front seat; [52] the front floorboard; [53] the back seat; [54] and the glove compartment.[55]

In addition, various containers located within the permissible area of the search may likewise be searched, for example, an attache case in the back seat [56] or a paper bag on the floorboard.[57] However, such containers located beyond the permissible scope of the search—in the trunk of the vehicle, for example—may not be searched incident to arrest.[58]

It should be noted at this point that in the recent decision of *Arkansas* v. *Sanders*,[59] the U.S. Supreme Court found the warrantless search of personal luggage located in an automobile to be unconstitutional, even though the search of the vehicle was permissible and under circumstances where there was apparently probable cause to believe that contraband was located in the suitcase. The search in *Sanders* was not incident to arrest, and the Court specifically declined to rule on the question of whether personal luggage could be searched under that theory if located within the "immediate control" of the arrestee. Until such questions are resolved, the far better course to follow would be to seize such containers as personal luggage, assuming probable cause that there is evidence or contraband inside, and apply for a warrant to search. In the absence of probable cause to believe that the luggage contains evidence or contraband, if a valid arrest has occurred and the luggage is within the "immediate control" of the arrestee, a search incident to arrest may well be the next best alternative. Logic suggests that if the luggage is locked and its contents inaccessible to the arrestee, then the underlying rationale for the search would not exist.

A few courts have upheld a complete search of the vehicle following the arrest of the occupant.[60] However, it appears that additional factors were generally present in those cases to support the search, apart from the fact of a custodial arrest. In view of the cases discussed above, it seems clear that the full search of a vehicle will not ordinarily be justified as an incident to the arrest of its occupants.

Contemporaneous Search

A final reminder should be made with respect to one additional requirement of a search incident to arrest, i.e., that the search be conducted contemporaneous with the arrest itself.

In *Preston* v. *United States*,[61] the U.S. Supreme Court held invalid the search of a vehicle at a garage to which it had been towed following the arrest of its occupants. The Court stated that because the search was "remote in time or place" from the arrest the justifications for the search—the need to seize weapons and prevent the destruction of evidence—were absent, and therefore the search was "simply not incident to the arrest." [62]

Summary

The U.S. Supreme Court has held that warrantless searches are *per se* unreasonable under the fourth amendment to the U.S. Constitution, unless justified by one of the few, and narrowly defined, exceptions to the warrant requirement.

The search incident to arrest is perhaps the oldest and most widely recognized exception to the rule. Traditionally, based on the need to secure weapons and prevent destruction of evidence, the search may be undertaken whenever a *custodial* arrest has occurred and may include the *person* arrested as well as the *area within his immediate control.*

The permissible scope of the search has been construed broadly enough to include portions of the interior of a motor vehicle which are reasonably accessible to the arrestee and from which he might conceivably obtain weapons or destroy evidence. Factors which the courts may consider in measuring the permissible scope of the search are:

1) Proximity of the arrestee to the vehicle at the time of the search;

2) Accessibility of the area searched to the arrestee; and

3) The timing of the search, i.e., contemporaneous with the arrest.

Since the search incident to arrest has limited objectives—to protect the lives of the arresting officers and prevent destruction of evidence—its scope is likewise limited. But considering the importance of those objectives, and despite the limitations, it remains a valuable tool in the hands of law enforcement officers today. **FBI**

Footnotes

[22] 414 U.S. 218 (1973).

[23] 395 U.S. 752 (1969).

[24] *Carroll* v. *United States*, 267 U.S. 132 (1925).

[25] The fourth amendment to the U.S. Constitution was first held applicable to the States through the 14th amendment "due process" clause in *Wolf* v. *Colorado*, 338 U.S. 25 (1949). The exclusionary rule, first adopted by the U.S. Supreme Court to enforce the fourth amendment in *Weeks* v. *United States*, 232 U.S. 383 (1914) was applied to the States in *Mapp* v. *Ohio*, 367 U.S. 643 (1961).

[26] See, *Agnello* v. *United States*, 269 U.S. 20 (1925); *United States* v. *Rabinowitz*, 339 U.S. 56 (1950); *Preston* v. *United States*, 376 U.S. 364 (1964).

[27] Contra, see, *State* v. *Scanlon*, 202 A.2d 448 (N.J. 1964); *People* v. *Reed*, 227 N.E.2d 69 (Ill. 1967).

[28] See, *Thompson* v. *State*, 398 S.W. 2d 942 (Tex. Crim. 1966); *Church* v. *State*, 333 S.W.2d 799, (Tenn. 1960); *State* v. *Taft*, 110 S.E.2d 727 (W.Va. 1959); *State* v. *Michaels*, 374 P.2d 989 (Wash. 1960); *Barnes* v. *State*, 130 N.W.2d 264 (Wis. 1964).

[29] *Supra* note 22.

[30] *Supra* note 23.

[31] *Supra* note 22, at 235.

[32] 414 U.S. 260 (1973).

[33] 504 F.2d 92 (6th Cir. 1974).

[34] *Id.* at 103.

[35] See also, *Wilson* v. *State*, 511 S.W.2d 531 (Tex. Cr. App. 1974).

[36] 499 F.2d 76 (5th Cir. 1974); see also, *People* v. *Cannon*, 310 N.E. 2d 673 (Ill. App. 1974); *State* v. *Huss*, 541 P.2d 498 (Oreg. App. 1975).

[37] *United States* v. *Marshall*, 499 F.2d 76, 77 (5th Cir. 1974).

[38] See e.g., *State* v. *Kaluna*, 520 P.2d 51 (Hawaii 1974).

[39] See, *Search of Motor Vehicles*, FBI Law Enforcement Bulletin, August 1967, p. 8.

[40] See, *Chambers* v. *Maroney*, 399 U.S. 42 (1970) (warrantless search of automobile based on probable cause); *South Dakota* v. *Opperman*, 428 U.S. 364 (1977) (inventory search of automobile).

[41] *Supra* note 23.

[42] *Id.* at 762–763.

[43] 369 So.2d 901(Ala. Cr. App. 1979).

[44] *Id.* at 909. See also, *United States* v. *Fox*, 407 F. Supp. 857 (W.D. Okla. 1975).

[45] 514 P.2d 1159 (Alaska 1973).

[46] *Id.* at 1166.

[47] 490 F.2d 666 (5th Cir. 1973).

[48] *Id.* at 669. See also, *United States* v. *Wilmoth*, 325 F. Supp. 1397 (D. Mass. 1971); *Madeley* v. *State*, 488 S.W.2d 416 (Tex. Cr. App. 1973); *Alberti* v. *State*, 501 S.W.2d 654 (Tex. Cr. App. 1973). Contra, see, *State* v. *Skrobacki*, 331 So.2d 376 (Fla. App. 1976) (search of vehicle invalid where subject in custody of two armed officers 15 feet from vehicle).

[49] See, 554 F.2d 1331 (5th Cir. 1977), *cert. denied*, 439 U.S. 968 (1978).

[50] *Id.* at 1336–1337. See also, *United States* v. *Day*, 331 F.Supp. 245 (E.D. Pa. 1971); *Paxton* v. *State*, 263 N.E.2d 636 (Ind. 1970). Contra, see, *United States* v. *Lewis*, *supra* note 33.

[51] See, *United States* v. *Marshall*, *supra* note 37; *State* v. *Huss*, *supra* note 36; *Guffey* v. *State*, 488 S.W.2d 26 (Ark. 1972); *United States* v. *Wilmoth*, *supra* note 48.

[52] *Madeley* v. *State*, *supra* note 48.

[53] *State* v. *Browning*, 233 So.2d 866 (Fla. App. 1970).

[54] *United States* v. *Frick*, *supra note* 47.

[55] *United States* v. *Klugman*, 506 F.2d 1378 (8th Cir. 1974); *United States* v. *Maddox*, 413 F.Supp. 60 (W.D. Okla. 1976); *Strader* v. *Estelle*, 491 F.2d 969 (5th Cir. 1974). Contra, see, *United States* v. *Santangelo*, 411 F.Supp. 1248 (S.D.N.Y. 1975).

[56] *United States* v. *Frick*, *supra* note 47.

[57] *United States* v. *Dixon*, 558 F.2d 919 (9th Cir. 1977), *cert. denied*, 434 U.S. 1063 (1978); *United States* v. *Butler*, 533 F. 2d 221 (9th Cir. 1976), *cert. denied*, 434 U.S. 865 (1977).

[58] See, *Haugland* v. *State*, 374 So.2d 1026 (Fla. App. 1979) (search of suitcase located in trunk of vehicle held invalid); *Soles* v. *State*, 299 A.2d 502 (Md. App. 1973), *cert. denied*, 415 U.S. 950 (1974) (search of locked briefcase located in trunk held invalid).

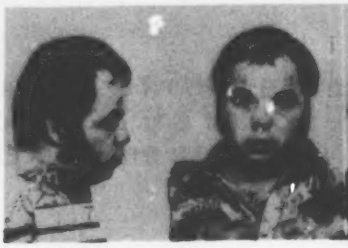
[59] 61 L.Ed. 2d 235 (1979).

[60] *United States* v. *Gonzalez-Rodriguez*, 513 F.2d 928 (9th Cir. 1975); *United States* v. *Roe*, 495 F.2d 600 (10th Cir. 1974); *United States* v. *Lewis*, *supra* note 33.

[61] *Supra* note 28.

[62] *Id.* at 367.

WANTED BY THE FBI



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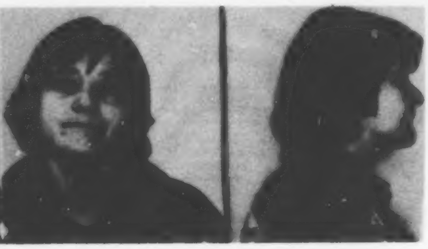

Date photographs taken unknown.

John Timothy Braun

John Timothy Braun, also known as John T. Braun, John Timmy Braun, John William Braun, Timmy Braun, Timothy John Braun, William D. Braun, William Daniel Braun, William John Braun, and Tim Pemper.

Wanted For:

Interstate Flight—Manslaughter.

The Crime

John Timothy Braun and his wife, Kathleen Ann Braun, both narcotics users, were participants in a drug-related murder, where subsequent to the murder, the subject sawed off the victim's arms with an electric saw so as to render the corpse unidentifiable. On December 28, 1977, Kathleen Ann Braun escaped from prison where she was serving a life sentence after being convicted of Murder—Party to the Crime. She escaped through a hole cut in the fence which was believed to have been made by her husband.

A Federal warrant was issued on December 6, 1978, at Milwaukee, Wis., for John Timothy Braun, and one issued on January 16, 1979, at Milwaukee, Wis., for Kathleen Ann Braun.

Criminal Record

John Timothy Braun has been convicted of manslaughter and narcotics violations.

Description

Age	34, born July 17, 1945, Milwaukee, Wis.
Height	5'7".
Weight	185 pounds.
Build	Stocky.
Hair	Brown.
Eyes	Hazel.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Laborer, salesman.
Scars and Marks	Scar on left inner arm; tattoo "JIM" on right inner arm.
Remarks	John Timothy Braun, who is reported to be extremely strong physically, may be accompanied by his wife, Kathleen Ann Braun, white female, born May 13, 1946, Milwaukee, Wis., 5'9", 200 pounds, brown hair, green eyes, FBI Number 232 479 F, whose apprehension is also being sought by the FBI.
Social Security Numbers Used	397-44-6364 397-41-6872 397-41-6367.
FBI No.	257 453 E.

Caution

John Timothy Braun reportedly possesses exceptional strength and both he and his wife should be considered armed, dangerous, and escape risks.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data:

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Fingerprint Classification:

19	I	29	W	IOM	
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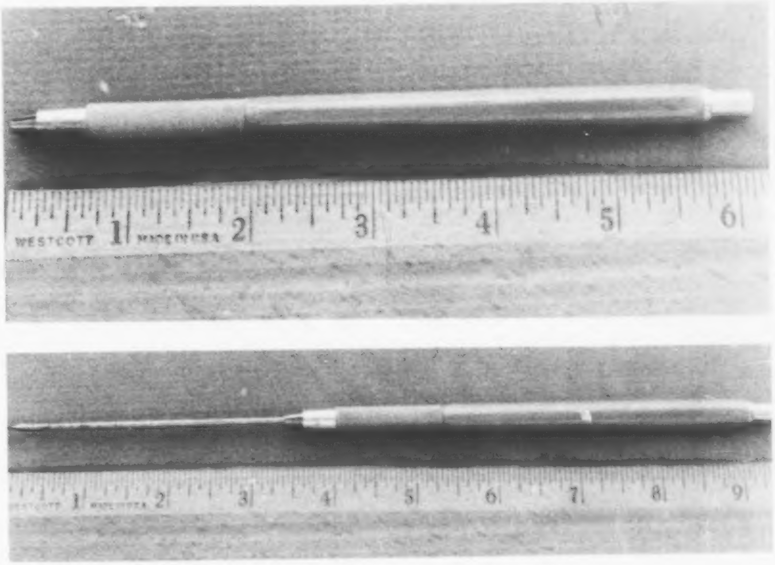

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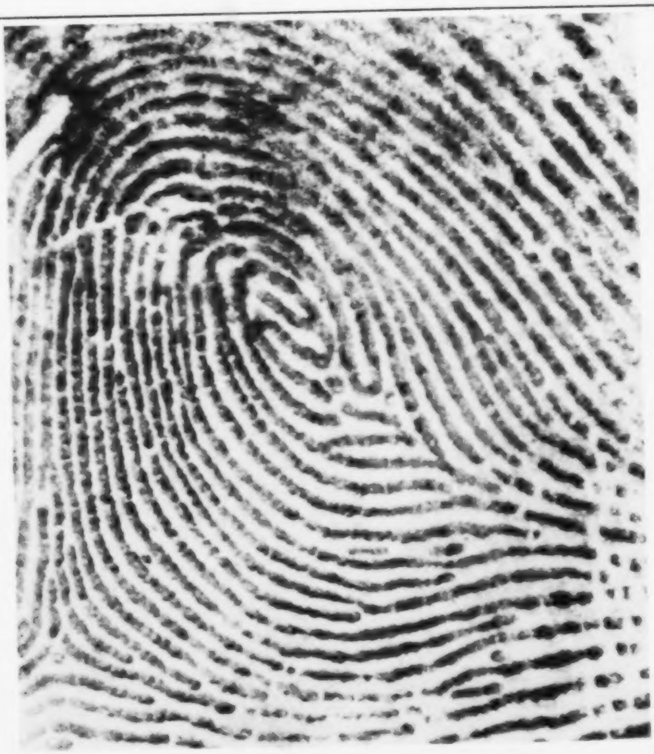
The interesting and unusual pattern presented here is classified as an accidental whorl. It consists of a combination of two different patterns, a whorl and a loop, and it also possesses three deltas. The outer tracing is obtained by tracing from the left delta to a point opposite the extreme right delta.



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JULY 1980, VOLUME 49, NUMBER 7

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The Cover: Providing assistance to both young and old, a Jacksonville police officer comes to the aid of a damsel in distress. (Photo courtesy of Frank Smith, *Florida Times-Union*, Jacksonville, Fla.)

Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

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Shoot—Don't Shoot

A REALISTIC FIREARMS COURSE

By DEP. CHIEF
CHARLES F. HINMAN
And
KATHRYN LEA WASHBURN
Police Department
Newport News, Va.

For 2 days there had been subzero temperatures with a heavy snowfall and piercing winds—a rather atypical occurrence in the seacoast city of Newport News, Va. Already weary from answering numerous calls for police service, an officer is dispatched to respond to a domestic disturbance, setting the stage for another tragic death of a police officer.

Feeling his pulse rate rising, the officer entered a dark, cold building, reacted to cries for help by drawing his service revolver, and rushed to the second floor to confront the situation.

Different from most domestic disturbances, a wife was holding her husband at bay with a sawed-off shotgun. The couple continued to argue and curse, disregarding the presence of the officer who was, with some amusement, watching the big, broad-shouldered man shake as his petite wife took aim at him with the shotgun.

The officer's repeated attempts to quell the argument were to no avail. Finally, because he failed to watch the hands of the woman and failed to demonstrate aggressive and safe action, the argument ended with the officer receiving two shotgun blasts to his chest and face. Once again an officer had become an authority figure—an intruder—the target for unleashed frustrations as often happens when an officer intervenes in a domestic argument and is turned on by one or both parties.

Fortunately, this was a staged situation—one of many used during the "Shoot-Don't Shoot" program, a part of the training given to members of the Newport News Police Department.

Deputy Chief Hinman

Ms. Washburn

G. C. Austin
Chief of Police

The criteria for the program were developed by the members of the Newport News Police Department's Tactical Team and put into effect with the permission of the chief of police in December 1978, as mandatory training for all Newport News police officers. This program received immediate favorable review and was approved by the director of the Peninsula Academy of Criminal Justice, located in Hampton, Va., to be included in the training for the basic police and inservice schools.

The "Shoot-Don't Shoot" program improves police training by offering members an opportunity to participate in controlled, high-risk situations. These role-playing situations provide realism, self-awareness, and confidence to the recruit. They also serve to remind the veteran officer how lax he may have become.

With the adoption of this program, the department had a number of factors to consider, including safety precautions, the use of targets or actual persons, the use of empty weapons or blank ammunition, and type of exercises to be incorporated. After experimenting with different ideas, it is now believed that the program offers the realism and maximum stress factors that are most beneficial in the training and retraining of police officers.

Using members of the tactical team as actors in each situation brings the human aspect into the program. As the officer enters each exercise, he has to react to the voices and body movements of the actor/adversary. If he fires, he would be shooting at a person, not a metal target.

For purposes of distraction, two female officers are used, and occasionally, a juvenile participates, with the consent of his parents.

The tactical team members use .38-caliber revolvers, M-16 rifles, 12-gage shotguns, and knives in their portrayal as antagonists during the exercises. The .38 blank ammunition consists of its primer only; the M-16 blank ammunition has a minimal amount of powder; and the 12-gage blank ammunition consists of primer and 26 grains of black powder with styrofoam wadding. The officer participating in the program is armed with a .38-caliber revolver with blank ammunition. To insure safety, all officers are required to wear protective vests and glasses provided by the department.

The exercises are conducted in an abandoned, 2-story building that has two long corridors with multiple rooms along each corridor. This allows different situations to be staged in each room.

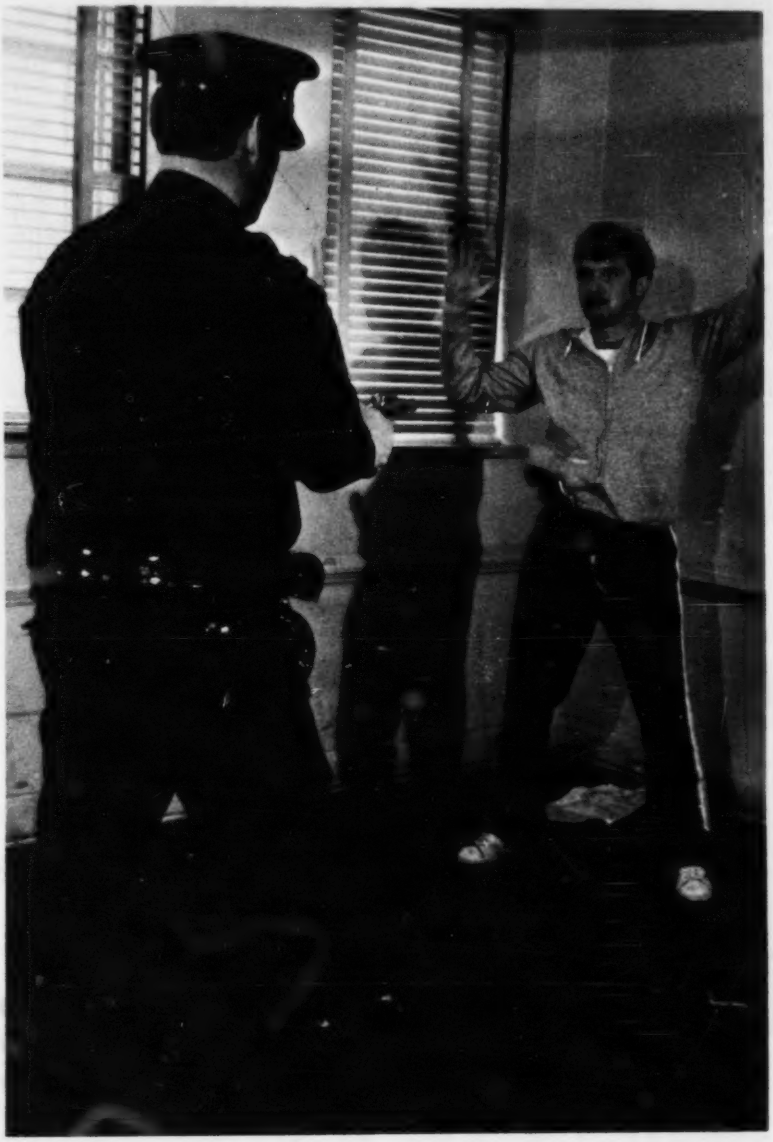
The majority of the situations used are designed after actual incidents that had occurred in our city. Some have been adjusted to place even more stress on the officer. To discourage participants from discussing the exercises with officers who had not yet participated, changes in the types of situations occur at any time during an actual exercise. The tactical team members would usually try a new idea on each other before incorporating it into the program.

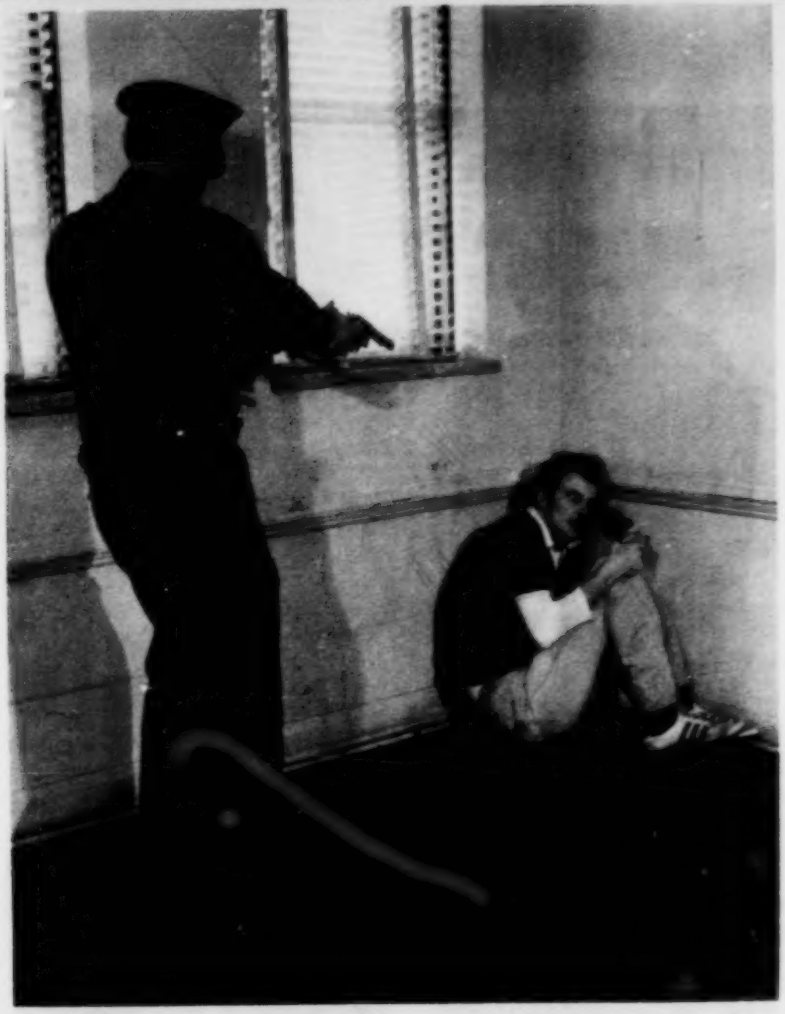
During basic police school and the inservice school, the program begins with a briefing. Factors such as safety, self-preservation, aggressiveness, and respect for life and property are stressed. Also pointed out are the number of police officers killed in the line of duty and why. Participation is voluntary, except for members of the Newport News Police Department. No one is allowed to participate if they are pregnant or suffer from any known heart disease. Officers are not allowed to carry personal weapons or ammunition in the building where the exercises are conducted. Recruit officers are then shown the department's suggested manner in which to display their firearms, conduct searches, disarm suspects, and properly conduct themselves in any given situation.

Once the officers are in the building, they move one-by-one to the second floor where they are handed a .38-caliber revolver, blank ammunition, protective vest, and safety glasses. Each officer is escorted through the exercise by two or more ranking police officers. When ready, he is informed that he will encounter approximately eight high-risk situations.

During his journey down the corridor, the officer is rushed from one problem to another, while being constantly barraged with questions from his superior officers about any misjudgments on his part that may have caused serious injury or death to himself or an innocent person. The questions are designed to irritate, frustrate, confuse, and anger the officer and generally to test his ability to cope with stressful situations he may encounter on the street.

He now begins a trip down "stress lane." As the officer approaches the first door, he can hear someone inside the room. When he opens the door, he observes a man with his hands held high and a partially exposed revolver in the waistband of his trousers. While the two exchange words, the suspect reaches down and draws the revolver. Before the officer can react, he is shot. In evaluating the situation, the officer realizes he should have constantly watched the person's hands. He learns how important reaction time can be, still not believing that if the situation were real, he could have been killed. What happens now may be a preview of his own experience at a later time.





Realizing this and being constantly reminded of his errors, it is not uncommon for the officer to be extremely nervous, experience loss of coordination, and become increasingly dissatisfied with his own performance, while attempting to decide whether to shoot.

The officer now approaches the second door. What he finds inside is a small, dark closet with a sink and several shelves. After a few seconds, there is a loud sound, and again, he is shot—he did not see the person lying on the top shelf. This situation demonstrates that police officers rarely look up when searching a room.

The trainee moves to door number three. Twice now, he has been "killed" and it weighs heavily on his mind. He opens the door slowly, and to the left, he sees a female with her arms up. In front of her, on a table, is a sawed-off, double-barrel shotgun. A male with his back to the officer abruptly turns around. Since the officer remembers he has been shot twice, his normal reaction is to assess quickly the situation. This quick assessment prompts him to shoot the unarmed man as he turns around. At the same time, the female reaches for the shotgun and fires. The officer has now shot an innocent person and has been shot with a shotgun at close range. This situation emphasizes the problem of tunnel vision and what additional stress can cause.

As the officer reaches the fourth door, he encounters the situation described in the beginning of this article, getting shot yet again.

The supervisor then tells the officer that the next door is at his right. As he walks toward the door with his gun drawn, a person meets him in the hallway. Disregarding him and concentrating on the doorway, the officer does not notice that a revolver is being drawn, and he is shot in the back—he was not expecting the unexpected.

In the sixth problem, the officer observes a man to his right, with his hands in the air. In the person's right hand is a pistol and to the left is the entrance to another room. The officer sees the hand of a person holding a gun coming slowly out of the room. As this person enters, the officer fires before he realizes he has shot a fellow police officer in full uniform.

At this time, the officer is questioned again. The supervisor may ask how many times the officer has fired his weapon. Very few are able to answer correctly. Some cannot even remember in what direction the cylinder turns.

In the seventh problem, the officer encounters a person sitting in the corner of an empty room. It appears that the person, holding a gun to his head, is preparing to commit suicide. The officer and the suspect exchange words. The suspect tells the officer to leave him alone or he will kill him too. Without additional warning, the person turns the gun on the officer and then on himself. Again, reaction time is important. Even though the officer had the drop on the person, he could not be sure when, or at whom, this person would fire.

As the final door is opened, the officer feels he is now ready for anything. He sees a large man with his back turned. At first, the man refuses to do anything the officer tells him. Finally, he turns and the officer fires.

To his amazement, the person had only a can of soda in his hand. With visible relief and disbelief, the officer leaves the building, pondering what he has just been through.

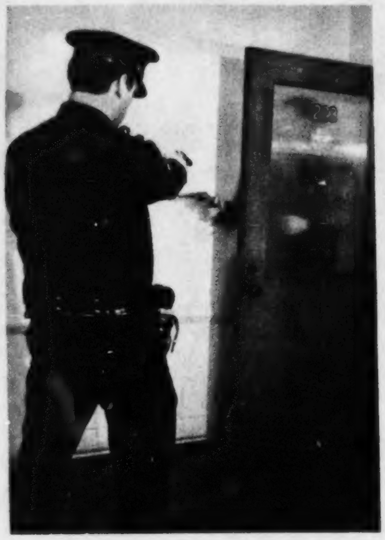
As an element of training, the program allows the officers and supervisors insight into areas that need work to improve the overall performance of the police officer.

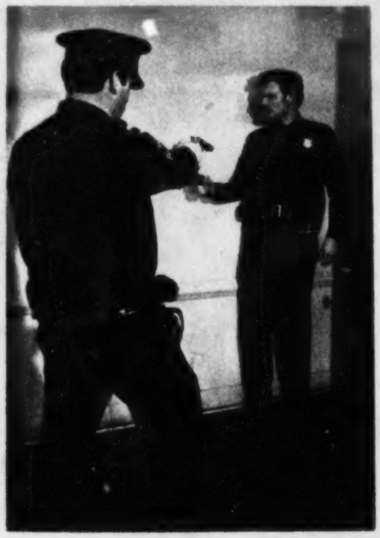
When a police officer takes part in a "Shoot-Don't Shoot" exercise, he comes away with many different thoughts. He cannot believe that he could be so lax that he was shot six times within a 5-minute period. He cannot understand why he looked into someone's eyes instead of looking at his hands. He wonders how he could shoot another police officer in full uniform or how he could shoot an innocent person with only a soft drink in his hands. He cannot comprehend why he was so nervous that he did not know how many rounds he had fired or even if he had fired. It is hard to believe that his knees were shaking so badly that he could not stand still or even load his revolver. The answer is stress.

When a police officer comes away from a "Shoot-Don't Shoot" exercise, the results are astounding. The prospect of death could become real in the few seconds it takes to shoot.

Officers are very pleased with the program and would like more of this type of training. All say that the exercise forces them to think, better preparing them for situations they may encounter on the street. We have included dangerous encounters any officer could happen upon during his career. We believe what the officer goes through in the exercise will affect his judgment in hazardous situations. Upon completion of the program, the officer will be better equipped to handle the responsibilities of his job.

There will continue to be senseless killings of both police officers and civilians. If this program prevents even one death, it will have been a worthwhile effort. **FBI**





Members of the "Shoot-Don't Shoot" tactical team.

The FBI Law Enforcement Bulletin tries to provide an exchange of views within the law enforcement community. Publication of any article should not be considered an endorsement by the FBI.

Photo credit: J. Barnes

The Firesetter

A Psychological Profile

(Part 2)

By ANTHONY OLEN RIDER
Special Agent
Behavioral Science Unit
FBI Academy
Quantico, Va.

A profile is defined generally as a "concise biographical sketch depicting a personality by vivid outlining and sharp contrast." [48] Its purpose is to provide a distinctive and narrative portrait of an individual.

A psychological profile, more precisely, is a description of the salient psychological and behavioral characteristics of a person. It portrays the individual psychodynamically by identifying personality and behavioral traits or patterns (trait clusters) that uniquely classify and distinguish him from members of the general population.

Behavioral scientists, including psychiatrists and clinical psychologists, have long used profiling techniques in their diagnostic assessment and empirical study of psychopathology. Profiles drawn from such studies have often aided in the understanding and treatment of mental illness, emotional distress, and personality maladjustment. Criminologists have also applied profiling strategies to their study and classification of known offenders.

Psychological profiling appears to have legitimate and practical application to selective criminal investigations. Its employment in matters of this nature, however, is often predicated on a need to identify an unknown subject who has demonstrated some form of psychopathology in his crime—sadistic torture in sexual assaults, evisceration and post mortem slashing and cutting in homicides, and motiveless firesetting. The projected profile of the offender in these instances serves to support the investigative process by aiding in the identification and apprehension of the offender.

The propriety of criminal psychological profiling pivots on three critical issues.

First, it must be determined whether the crime suitably lends itself to psychological analysis. Crimes against the person appear to be best suited for criminal psychological profiling.

Second, psychological profiling should be applied only to those cases in which the unknown subject demonstrates some form of mental, emotional, or behavioral disturbance in the crime. Unless there is perceptible psychopathology present in the crime, a profile cannot be rendered on an unknown subject.

The third factor to be considered concerns the potential value of the profile in aiding law enforcement in its identification of unknown subjects. If only vague generalizations can be drawn from the crime scene about the subject's behavioral style, then the efficacy of the psychological profile is considerably diminished. For this technique to be an effective tool, it must assist the investigator in focusing his investigation.

The purpose of criminal psychological profiling, then, is to provide the investigator with a personality composite of the unknown subject that will aid in his swift and judicious apprehension.

Profiling the Firesetter

David Berkowitz, the confessed "Son of Sam" mass murderer who terrorized New York City during 1976 and 1977 by killing five young women and a man and wounding seven other young people, also reportedly informed his attorneys that he set over 2000 fires and made 137 false alarms in New York City from 1974 through 1977. On almost every occasion, he reportedly called in the fires to the police as the "Phantom of the Bronx." [49]

According to a newspaper account, Berkowitz claimed that he set these fires in cars, rubbish, brush, and vacant and unoccupied stores. Allegedly, he set 11 of these fires on a single day and two less than a month prior to his last killing just a block away from the future murder site.

The newspaper further reported that "childhood friends of Berkowitz recalled . . . that they would frequently 'buff' fires in a car outfitted with a fire radio and that Berkowitz—who dreamed of becoming a fireman—would sit in the 'navigator's' seat and log the blazes in detail." [50]

Note pads seized by the authorities, allegedly bearing the handprinted notes of Berkowitz, gave detailed information on 1411 fires for the years of 1974, 1975, and 1977, including the date and time of the fire, street, borough, weather, number of the fire box, and the fire department code indicating the type of responding apparatus and building or property burned.

The question arises as to whether Berkowitz typifies the firesetter.

Are arsonists homicidal? Are they frustrated would-be firemen? Do they keep meticulous diaries of their firesetting activities? Do they tend to report their fires to the authorities? What are the precursory factors of incendiarism? What are the primary psychological and behavioral characteristics of the firesetter? Are they uniquely different from one another and from other offenders? Do they always leave evidence of their personality at the fire scene?

These questions certainly have intrigued behavioral scientists and investigators for centuries. In fact, the psychological and psychiatric literature is replete with clinical case studies and empirical research concerning pathological firesetting. Significant insight into such behavior has been obtained, but much still remains speculative or only partially substantiated. Consequently, precise answers to the above questions remain uncertain. More vital and detailed information concerning the psychological and behavioral aspects of firesetting must be collected and assessed if we are to classify and profile more accurately the arsonist and significantly impact his firesetting. Understanding his behavior preceding, during, and after his firesetting experience will greatly enhance the investigative process and possibly accelerate identification and apprehension.

Common Characteristics of the Firesetter

According to Jesse James in his article, "Psychological Motives for Arson,"

> "Neither sex, age, education, intellectual level nor economic status in any way limits the possibility of any individual to engage in arson. On the other hand, from a study of large samples, it does appear that, statistically, persons of certain ages and with certain characteristics are more apt to set fires than are others." [51]

Age

Studies have consistently found that firesetters tend to be young, with a high rate of incidence around 17 years of age. Macdonald reports that the highest frequency of pathological firesetters is between ages 15 and 20.[52] According to figures available in the FBI *Uniform Crime Reports* (UCR), arrested arsonists ages 20 and under comprise 65.8 percent of the total arson arrestees and those 13 to 19 years of age account for 42.8 percent.[53]

Sex

The overwhelming majority of known firesetters are male. This has been supported in clinical and empirical research studies of known arsonist populations and demonstrated in the statistical incidence of arrests for arsonists.

Race

According to statistical evidence, arrested arsonists are predominately caucasian. However, there is no evidence that race is a correlate to arson.

Intelligence

A large number of studies have indicated that firesetters tend to be mentally deficient or of below-average intelligence. Yet, it has been suggested that possibly it is the mentally deficient firesetter or at least the less intelligent one who is most often identified or studied. The more intelligent arsonists may avoid detection. Although a large number of studies have identified intellectual difficulties among firesetters, they have not conclusively demonstrated that intellectual impairment or low basic intelligence is a precursor to firesetting.

Academic Performance

Studies of firesetters have consistently found histories of poor academic achievement, severe scholastic retardation, and significant grade failures among arsonists. This may be due not necessarily to intellectual impairment but to social and personal maladjustment. Environmental stress, lack of parental attention, and anxiety may produce learning difficulties. Whatever the reason, firesetting children tend to have problems in school.

Rearing Environments

Firesetters appear to come from disruptive, frustrating, harsh, broken, or unstable home environments. Often their families are large and within the lower socioeconomic level, and it is not uncommon to find one or both parents frequently absent. Some studies have noted that repetitive child firesetters are often middle children; whereas, adult arsonists are likely to have been the first born, last born, or an only child. It has been frequently noted that firesetting children come from father-absent and mother-dominated (overprotective, rejecting, or abusive) environments.

Social Relationships

Firesetters typically experience difficulties in social relationships, especially with women. Because their rearing environments have not fostered normal social development, they generally lack the basic social skills necessary for good interpersonal relations. They have been generally described as socially maladjusted and social isolates.

Marital Ties

Numerous studies have reflected that firesetters typically experience poor marital adjustment. Few are known, in fact, to have marital ties. This possibly stems from their difficulties in developing and maintaining close interpersonal relationships and being reared in mother-dominated environments. Many have also expressed a hatred or fear of women, as well as sexual inadequacy.

Employment History

Poor occupational adjustment is another common characteristic of the firesetter. His work habits are poor, and he frequently changes jobs, has difficulty with supervisors, and demonstrates little interest in advancement. He is often unemployed or employed in an unskilled position.

Emotional-Psychiatric Disturbance

Firesetters have been typically described as psychiatrically disturbed and emotionally distressed and maladjusted. They also appear to lack self-control and self-confidence and experience significant stress and tension. Frequently, they manifest psychopathic, neurotic, and psychotic disorders.

Sexual Disturbance

Firesetting has been universally associated with sexual perversion. Researchers who are psychoanalytically oriented have postulated that "firesetting functions as a sexual substitute. . . ."[54]

The pyromaniac has even been alleged by some investigators to receive sexual excitement in setting and watching his fires. Arsonists as a group have been reported to experience sexual maladjustment and to have an urethral-erotic trait. However, the actual extent of sexual deviance in firesetting is unknown.

Physical Deformities and Defects

The exact relationship of physical disabilities to firesetting is unknown, although researchers have detected a high incidence of physical abnormalities or deformities in study samples. Vreeland and Waller speculate that physical abnormalities, ". . .while not likely to directly predispose an individual to criminal activity, may be a factor in producing a stressful environment which sets the occasion for activities such as firesetting."[55]

Enuresis

Enuresis is the involuntary emission of urine, often identified as bedwetting. According to researchers who follow the psychoanalytic viewpoint, enuresis is associated with hate, parental rejection, fantasies of destruction, violent aggression, and sexual symbolism. Michaels and Steinberg have noted that delinquent males who demonstrate a history of persistent enuresis frequently show tendencies toward pyromania.[56] In fact, a number of researchers have found a history of childhood enuresis in firesetters, as well as in delinquents of many types.

Alcoholism

Excessive alcohol consumption has been consistently related to adult firesetters. In fact, a number of studies have found that a large portion of arsonists are intoxicated at the time of their firesetting act. Drinking prior to the act may be an important contributing component in firesetting behavior in that it may loosen inhibitions.

Sadistic-Aggressive Tendencies

Sadistic and aggressive tendencies are also thought to be common among firesetters. However, the arsonist is believed to have difficulty in expressing or externalizing his aggression. When his impulses are thwarted, he has the tendency to react by perpetrating crimes against property instead of people.

Motive

The motives for firesetting are multiple, though revenge seems to run like a thread throughout all malicious incendiarism. Firesetting has been found to be the result of impulsive behavior, as well as premeditation. What specifically stimulates the firesetting act remains unanswered. Rejection, stress, failure, excitement-seeking, revenge, and sexual inadequacy have been credited as motivating factors in pathological firesetting. However, there is little evidence that an urethral-erotic trait activates the desire to set fires. Though the act of firesetting appears to be abnormal and disproportionate to the motive, it may not be from the firesetter's perspective. Typically, it represents his way of coping with rejection and stress.

Solitary-Group Firesetting

A review of the literature consistently reveals that adult arsonists and children are most frequently solitary firesetters, whereas adolescents often set fires in peer groups or pairs.

Prior Criminal History

Vreeland and Waller have reported that most of the studies of institutionalized (imprisoned and hospitalized) arsonists and nonarsonists as groups show both having extensive histories of criminal and antisocial behavior.[57] However, their particular patterns of criminality appear to be characteristically different. Arsonists as a group consistently perpetrate a significantly greater number of crimes against property and fewer crimes against persons than nonarsonists, though this pattern seems to change after mid-twenties. Lewis and Yarnell report that firesetters under 25 years of age indulge chiefly in property offenses. After age 25, they appear to become more inclined to engage in interpersonal violence.[58]

Firesetting Targets

There has been little data collected on the types of structures which are generally high-risk targets for firesetters. A number of studies on adolescent-group firesetters indicate, however, that churches and schools are frequent targets. Although child, female, and psychotic firesetters tend to set fires at home, they are also known to start fires away from their premises.

Hurley and Monahan, for instance, found that psychiatric prisoners had most frequently targeted commercial property, with dwelling houses second.[59] Virkkenun noted that schizophrenic arsonists were far more likely to set fires in unoccupied structures than nonschizophrenic arsonists.[60] The revenge firesetter generally targets the property of his real or imagined enemy, and although the pyromaniac compulsively sets fires, he may be selective in his choice of property.

The Typical Arrested Arsonist

In an effort to determine a profile of the average arrested arsonist by age, sex, and race, a review of the *Uniform Crime Reports* for 1969 through 1978 (10-year period) was conducted, which revealed that 89 percent of those arrested for arson were male and approximately 76 percent were white. However, it should be noted that race has not been demonstrated as a significant variable in predicting firesetting.

When arson arrests were examined by age, it was determined that 54.6 percent of arrestees were under 18 years of age. Almost 43 percent were 13 through 19 years old, and those 10 and under comprised 11 percent of the total arrest population. It was also found that the percentage of arrests for blacks was significantly higher for the 18-and-over category than for those under age 18. The antithesis was found for arrested white arsonists. Seventy-five percent of the total reported arrests for arson were 24 years of age and under.[61] According to this analysis, the typical arrested arsonist is a white male in his teens to early twenties. (See Tables 1 through 5 for details.)

Although the UCR provides data on age, sex, and race of the arrested arsonist, it does not describe his personality characteristics. Therefore, it cannot be determined from these figures whether or not the arrested arsonist is representative of the arsonist population. Since so few arsonists are ever identified, arrested, or prosecuted, they may not represent the typical arsonist. However, comparison of these arrest statistics with available data from case and empirical studies of known arsonists reflects that they are descriptively comparable at least by age, sex, and race.

There are few studies which have provided a comprehensive profile of the arsonist. In fact, there is some real question as to whether a "typical" arsonist actually exists. Rothstein, for instance, contends that individual differences in firesetters preclude the development of a typical profile.[62] Nevertheless, some researchers have constructed profiles of firesetters based on common characteristics of selective populations. These profiles may not represent all arsonists, but they do appear to illustrate many of those who are commonly encountered in prisons and on parole.

A Typical Incarcerated Adult Male Arsonist

In 1971, Michael R. Wolford announced the results of an experimental study involving all known incarcerated male arsonists in three Southeastern States. The purpose of the study was to ascertain if there were any significant differences between incarcerated arsonists and incarcerated nonarsonists. The sample population included 68 arson offenders and 57 nonarsonists.

The study revealed no significant differences between arsonists and nonarsonists in age, race, employment background, marital status, number of prior felony arrests, length of military service, or family stability. However, significant differences were noted for educational level, IQ score, rural-urban background, and number of crimes committed against property. The arsonists in this study were found to be less educated, to have lower IQ scores, to be reared in more rural settings, and to have committed more property offenses than did nonarsonists. They were also incarcerated as a group twice as often as nonarsonists. The study did not find any supporting evidence that arsonists are basically sociopathic (psychopathic or antisocial) in their personality structure. Instead, it was purported that incarcerated arsonists "exhibited personality characteristics more closely associated with persons undergoing psychic stress. . . ."[63]

The mean age of Wolford's incarcerated arsonist was 28, which is significantly older than the typical arrested arsonist according to UCR. In addition, only 47 percent of his arsonist population were white, as compared to 76 percent represented in UCR statistics. Coupled with this is the fact that Wolford's imprisoned arsonist had approximately two prior felony arrests and a mean number of four previous incarcerations. In light of these facts, it appears that his arsonist sample population reflected the recidivist and not the typical arson offender.

A Typical Paroled Adult Arsonist

James A. Inciardi in his study of 138 convicted adult arsonists released on parole from New York State prisons from 1961 through 1966 found that his sample population fit into six behavioral categories based on their motivational patterns, namely, revenge firesetters, excitement firesetters, institutionalized firesetters, insurance-claim firesetters, vandalism firesetters, and firesetters who use arson to cover up another crime.

The median age of the paroled arsonist in Inciardi's study is comparable to the age of Wolford's incarcerated firesetter, but again is much older than the typical arrested arsonist. The profiles depicted by Wolford and Inciardi also appear comparable in IQ level, rearing environments, marital status, and criminal histories. However, Inciardi's study does not provide adequate criminological data on which to base a definite conclusion about the personalities of his subjects.

The Adult Revenge Firesetter

Revenge appears to be one of the more significant motivational factors in arson. Some researchers believe that it is the undertone in most, if not in all, destructive firesetting. Inciardi found that the revenge motive was represented in 58 percent of his sample population. However, Nolan D. C. Lewis and Helen Yarnell in their study of 1145 pathological male arsonists determined that only approximately 15 percent of their sample expressed revenge as a primary motive for firesetting.

Table 1

Total Arson Arrests by Age Group 1969-1978*

Age Groups	Total Arson Arrests 1969-1978	Percent of Total Arrests
Grand Total All Ages	125,513	100.0 [1]
Total Under 18 Years of Age	68,507	54.6
10 and under	13,766	11.0
11-12	11,323	9.0
13-14	18,950	15.1
15	9,849	7.8
16	8,009	6.4
17	6,610	5.3
Total 18 Years of Age and Over	57,006	45.4
18	5,549	4.4
19	4,712	3.8
20	3,871	3.1
21	3,345	2.7
22	2,972	2.4
23	2,833	2.3
24	2,572	2.0
25-29	9,375	7.5
30-34	6,483	5.2
35-39	4,700	3.7
40-44	3,665	2.9
45-49	2,718	2.2
50-54	1,848	1.5
55-59	1,098	0.9
60-64	600	0.5
65 and over	581	0.5
Unknown Age	84	(2)

[1] Percentages do not add to 100.0 percent, due to rounding.
[2] Less than one-tenth of one percent.

*Source: U.S. Federal Bureau of Investigation, *Crime in the United States*, Annual. Washington, D.C.: U.S. Government Printing Office, 1969-1978.

Although the Inciardi and Lewis and Yarnell studies vary on the age factor, their revenge offenders are significantly comparable in many aspects. In brief, they are characteristically male; white; of below-average intelligence; unmarried; personally, socially, and sexually maladjusted; of pathological rearing backgrounds; alcoholic; nomadic; unskilled laborers; and have a hostile and assaultive outlook on life. Their fires are set against persons whom they believe have offended them or whom they imagine have abused them.

The Jealousy Motivated Adult Male Firesetter

"Immediate retribution is the goal of firesetters incited by wounded vanity and jealous rage."[64] Jealousy is central to this type firesetting, and Lewis and Yarnell found this category to represent approximately 8 percent of their adult male sample.

The Would-Be Hero (Attention-Seeking) Male Arsonist

This type of arsonist resorts to firesetting to attract attention to himself. Lewis and Yarnell describe them as "the men with grandiose social ambitions whose natural equipment dooms them to insignificance."[65] Examples have included watchmen, fire and police "buffs," volunteer firemen, and an occasional policeman. "Policemen, or men who want to become policemen, will set fires so that they can demonstrate how clever they are. . . ."[66] They found this type arsonist (excluding volunteer firemen and fire "buffs") to represent approximately 6 percent of their adult male sample.

The Volunteer Fireman Solitary Firesetter

This category also represents an inadequate, attention-seeking male. Lewis and Yarnell identified 51 cases (4 percent) fitting this description within their adult male sample population. Although this group appears to be relatively small in number, it has the propensity for serious destructiveness.

The Fire "Buff" Firesetter

The fire "buff," like the police "buff," is an enthusiastic "hanger-on." He generally represents a frustrated would-be fireman or would-be policeman. Although many buffs are civic-minded and constructive in their associations with the police and fire service, others are characteristically immature, inadequate, and underachievers. The fire buff who sets fires is seeking attention and attempting in a pathological way to win praise and social recognition for his alertness and heroism in reporting fires and giving assistance in fighting them.

The Pyromaniac

The pyromaniac differs characteristically from the other arsonists in that he lacks conscious motivation for his firesetting. In fact, he is considered by many to be motiveless. Pyromaniacs have been described as:

> ". . . offenders who said they set their fires for no practical reason and received no material profit from the act, their only motive being to obtain some sort of sensual satisfaction."[67]

Lewis and Yarnell in their study found that the pyromaniac represented 60 percent of their sample population. Of this number, 241 expressed receiving some sort of satisfaction from the fire. The remaining 447 offenders "offered no special reason or persistent interest beyond the fact that something within them forced them to set fires."[68]

This urge to set fires has been referred to as the "irresistible impulse." However, authorities should be cautioned on accepting this explanation.

Some researchers have postulated that this behavior is the release of sexual tension. Gold agrees that sexual tension may be a motivational factor in some incendiarism but rejects it as a major causative factor,[69] and Lewis and Yarnell found only a very small percentage who claimed to have received some sort of sexual gratification from their firesetting.[70]

The Excitement Firesetter

According to J. H. Magee, the excited firesetter is allegedly prompted to set fires because of a craving for excitement. His satisfaction comes not from seeing the flames but from mingling in the crowd which has gathered at the scene of the fire.[71] According to Inciardi, however, the incentive inducing this type of firesetter is the need to experience the fire and to watch the operations of the firemen and their fire equipment. Some authorities have interpreted Inciardi's "excitement firesetter" to closely resemble that of the pyromaniac; however, because of insufficient descriptive data on Inciardi's sample, a definite conclusion cannot be supported.

A Typical Female Firesetter

The female arsonist appears to direct most of her firesetting against her own property, possessions, or premises and rarely against her employer or neighbor. Her motives are similar to that of the male's, with the exception that she seems to have more self-destructive tendencies.

Lewis and Yarnell studied 201 female firesetters. This figure represented only 15 percent of the total adult sample population. The majority were found to be mentally defective and approximately 32 percent demonstrated evidence of psychosis, primarily schizophrenic reactions. They were described generally as older women who were lonely, unhappy, and in despair.

The Child Firesetter

Authorities on firesetting behavior believe that repetitive or chronic firesetting by children represents a severe behavioral symptom and an observable symptom of psychological disturbance. For the disturbed child, firesetting becomes an instrument or outlet for vengeful-hostile reaction, resentment, and defiance of authority.

Yarnell in her study of 60 cases of child firesetters determined that 60 percent were between 6 and 8 years of age. This group demonstrated the following characteristics:

1) They set fires with associated fantasies to burn some member of the family who had withheld love or was a serious rival for parental attention.

2) Most fires were started in the home or within the immediate vicinity.

3) The fires, usually symbolic, caused generally little damage and were often extinguished by the child.

4) Prior to the firesetting, the child often had terrible dreams and fantasies of the devil and ghosts.

5) They suffered acute anxiety over these dreams and fantasies, as well as their sexual preoccupations.

6) All experienced sexual conflicts. Most actively engaged in masturbation and some participated in mutual masturbation, sodomy, and fellatio.

7) Boys who were enuretic also frequently demonstrated passive traits.

8) Many experienced learning disabilities.

9) Some had physical handicaps.

10) They also demonstrated other forms of asocial behavior in addition to firesetting, i.e., truancy, stealing, running away, hyperkinesis, and aggressive behavior.

11) Some were orphans and institutionalized children.

12) Their rearing environments were pathological or broken. It was not uncommon for them to come from father-absent or ineffective-father homes.

13) They also lacked a sense of security, love, and attention.[72]

Table 2

Total Arson Arrests by Sex*

Sex	Total Arrests 1969-1978	Percent Distribution
Male	112,052	89.3
Female	13,461	10.7
Total	125,513	100.0

The Adolescent Firesetter

There have been extensive studies on youthful or adolescent firesetting. In 1951, Lewis and Yarnell studied a large population of adolescent male firesetters. This study demonstrated that home-centered firesetting increasingly diminished with the age of the firesetter. As he got older, his firesetting shifted from the home to schools, churches, factories, and homes of strangers. These targets were frequently selected by youths 12 through 16 years of age. The highest incidence of firesetting at schools involved the 12-14 age group. Fires directed at schools were generally associated with school problems and motivated by revenge. This type of firesetting was often preceded by theft, vandalism, and harassment of the teacher. Defective intelligence was not found to be a factor in adolescent firesetting until the youth reached age 16. After age 16, the evidence of fires set by mentally defective youths showed a marked increase.[73]

Common characteristics of the adolescent firesetter include: A history of delinquency, disruptive rearing environment, pathological personality development, sexual immaturity, aggressive or destructive behavior, poor social adjustment and emotional disturbance, and poor academic achievement.

(Continued on page 16)

Table 3

Total Arson Arrests by Race*

Race	Total Arrests 1969-1978	Percent Distribution
White	90,555	75.8
Black	26,978	22.6
Other	1,923	1.6
Total	119.456	100.0

Table 4

Total Arson Arrests by Race Under Age 18*

Sex	Total Arrests 1969-1978	Percent Distribution
White	51,929	80.0
Black	12,072	18.6
Other	921	1.4
Total	64,922	100.0

Table 5

Total Arson Arrests by Race 18 and Over*

Race	Total Arrests 1969-1978	Percent Distribution
White	37,513	70.8
Black	14,492	27.3
Other	993	1.9
Total	52,998	100.0

*Source: U.S. Federal Bureau of Investigation, *Crime in the United States,* Annual. Washington, D.C.: U.S. Government Printing Office, 1969-1978.

A PROFILE OF THE TYPICAL PYROMANIAC

(Lewis and Yarnell)

Age: Heaviest concentration between ages 16-28; highest frequency at age 17.

Sex: Male.

Race: Predominately white.

Intelligence: Ranged from mentally defective to genius (approximately 22 percent of those with no explanation for their firesetting were low-grade defectives).

Physical Defects: Found to be frequently present.

Enuresis: Present in some.

Mental Disorders: Psychopathy, as well as psychotic disorders, were identified within this category; the compulsive urge also appears to reflect a neurotic obsessive compulsive pattern of behavior.

Academic Adjustment: Poor educational adjustment although some pyromaniacs were intellectually bright. Their academic performance was marginal or scholastically retarded—underachievers.

Rearing Environment: Pathological, broken, and harsh rearing environment with inconsistent discipline and parental neglect. Pyromaniacs noted an unhappy home life.

Social Class Structure: Some pyromaniacs emerged from middle or even upper socioeconomic levels, while others were products of lower class environments.

Social Adjustment: Socially maladjusted; severe problems in developing and maintaining interpersonal relationships.

Marital Adjustment: Although some pyromaniacs married, their marital relationships were poorly adjusted.

Sexual Adjustment: Sexually maladjusted and inadequate; limited contact with women.

Occupation/Employment History: Most frequently unskilled laborers, if employed. They accepted subservient positions and became resentful when they realized that their work was degrading.

Personality: The pyromaniac has been described as a hopeless misfit and feeble person, a physical coward with feelings of inadequacy, inferiority, insufficiency, and self-consciousness. They are introverted, seclusive, aloof, frustrated, and lonely people. They have unconscious fears of being unwanted and unloved and suffer from a wounded self-esteem and a lack of pride and prestige. They often project an image of calmness and indifference (anxiety and tension are present nonetheless). They have vague feelings, however, that their defenses will fail them and that these repressed impulses will emerge. They tend to be defensive and obstinate in attitude and ambivalent toward authority. Although they have an inner-dependency on authority, they also have contempt for authority. In fact, they have repressed their rage and hatred toward society and authority figures. They lack ambition and aggressiveness. Some stated that they did not want to really hurt anyone. They are apologetic but ashamed for being apologetic. They seek expression through excitement. Some pyromaniacs have been found to be quite intelligent, neat, and methodical in their behavior. They have a need to be recognized and have a sense of worth. They have a craving for power and prestige. They fail to express remorse or to accept responsibility for their firesetting activities.

Criminal History: Many had histories of delinquency and criminal behavior to include: Runaway, burglary, theft, and other property offenses.

Use of Alcohol: Alcohol was frequently used as a method of escape and to remove social inhibitions, but they did not set fires because they drank. Of the 447 who offered no explanation for their firesetting except an "irresistible impulse," 70 were alcoholic (approximately 16 percent).

Suicide: Some attempted suicide after arrest and incarceration.

Motives: The exact motivation in each case was unknown; however, the following motives were identified:

1) Desire to be a hero and center of attention (craving for excitement and prestige). Play detective at the fire; render first-aid; help rescue victims; assist firemen.

2) Desire to show themselves sufficiently clever to cause the "experts" (the firemen and detectives) problems and to render them helpless. They have grandiose ambitions to be the executive who directs the firefighting activity and puts the firemen into action.

3) Enjoy destruction of property (vagrants exhibiting pyromania receive sadistic pleasure in watching the destruction of buildings).

4) Irresistible impulse (could not offer an explanation except driven by unexplainable force or impulse to set fires).

5) Revenge, although not consciously present, was also considered to be a possible factor.

6) Sexual satisfaction (this was noted in only 40 cases.)

Irresistible Impulse: No single precipitating factor produced this impulse. It was believed to be the result of an accumulation of problems which caused stress, frustration, and tension. Examples included: Thwarted sexual desires; loss of employment; refusal of employment; death of parent or loved one; threats to personal security and masculinity; explosive protest over imagined immorality or promiscuousness of mother or spouse; fear of impotency, etc.

Firesetting Experience:

Type of Fires: Their fires were generally made in haste and in a disorganized fashion; often set in rubbish, basements, and in and around inhabited dwellings, office buildings, schools, hotels and other structures in thickly populated sections of cities. Frequently, they were made in rapid succession. Matches, newspapers, and other available materials were used in starting the fires.

Number of Fires: Frequently they started numerous fires, sometimes hundreds, until they were caught.

False Alarms: They were also known to set false alarms.

Time of Day: Their fires were often nocturnal.

Regard For Life: There was no regard for life. (Fires were frequently set in and around occupied buildings)

Type of Firesetter: Solitary (An insignificant number set fires in groups or with a partner).

Emotional State and Behavior Just Prior to Firesetting: Pyromaniacs frequently expressed the following symptoms preceding their firesetting: Mounting tension and anxiety; restlessness—an urge for motion; conversion symptoms, such as headaches, pressure in the head, dizziness, ringing in the ears and palpitations; a sense that the personality was merging into a state of unreality; and an uncontrollable urge or irresistible impulse to set fires.

Emotional State and Behavior During Firesetting: While setting the fire, pyromaniacs felt that the act was so little their own; they described the emergence of a sort of dissociative state (a transient sensation of being controlled by an external force—a feeling of being automated). They recognized that the firesetting was senseless but they did not have the control to prevent it. To a casual observer, they would appear normal and controlled.

Emotional State and Behavior After Setting the Fire: Pyromaniacs expressed a sense of relief and even exaltation. After setting fires their tension subsided. Few expressed sexual satisfaction in setting fires. They often stayed at or near the fire as a spectator, or to assist the responding firemen by rendering first-aid or rescuing victims from the fire. Some enjoyed playing detective at the fire scene. Some pyromaniacs, after setting their fires and insuring that the firemen would respond, went home to a restful sleep.

Arrest: Some pyromaniacs insured that they would be identified and arrested; some even turned themselves in to the police. Many continued to set fires till apprehended. The arrest seemed to release the magical hold the irresistible impulse had on them. It was a relief for them to be stopped from setting fires.

Confession: Pyromaniacs often readily confessed or admitted guilt, though they expressed no remorse or regret for their behavior; neither did they generally accept responsibility for their firesetting activity. They were most often quiet and cooperative under arrest.

Selection of Target: Firesetting targets were often randomly selected for no apparent reason.

Recidivism: 28-percent recidivistic rate in the study.

Moll, as well as Lewis and Yarnell, has purported that adolescent firesetting is generally committed for excitement rather than for destructive reasons.[74]

Yet, whatever the specific motive, vandalism fires appear to represent 80 percent of juvenile firesetting.[75] The adolescent firesetter generally works in pairs or groups, since this provides support for his behavior and encourages the act. These pairs or groups generally consist of one boy who assumes a dominant role and others who accept a submissive role.[76]

The Schizophrenic Male Firesetter

Psychosis is generally defined as a severe form of personality decompensation characterized by marked impairment of contact with reality and personal and social functioning. Delusions, hallucinations, emotional blunting, and bizarre behavior may also be present in varying degrees.

The most serious of all psychotic disorders is schizophrenia, which has been defined as "a group of psychotic disorders characterized by gross distortions of reality, withdrawal from social interaction, and disorganization and fragmentation of perception, thought and emotion." [77] According to the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-III), schizophrenia includes several specific subtypes, each of which has specific symptomatology which uniquely characterizes and distinguishes it from other forms.

Lewis and Yarnell in their study of 1145 male firesetters found that 154 of them could be diagnostically classified as psychotic. This represented 13.4 percent of their total sample population— a small fraction of the total incidence of male firesetters.[78]

In describing the psychotic firesetter, Lewis and Yarnell noted that "they seemed distinctive, in that their fires were set for suicidal purposes, their motives were apparently delusional in character or they manifested bizarre behavior either during or immediately after the firesetting." [79]

Though the psychotic appeared distinctive in that his firesetting was suicidal and delusional, he was found to fall naturally within other firesetter categories, i.e., revenge firesetters and pyromaniacs. Consequently, Lewis and Yarnell included the majority of psychotic firesetters in other subgroups rather than devising a special classification for them. Eight percent of these psychotics were classified as pyromaniacs, and approximately 90 percent of the male psychotics were diagnosed as schizophrenics.[80]

Virkkunen's study of 30 schizophrenic and nonschizophrenic firesetters revealed that both groups were characteristically motivated by hate. The schizophrenic subjects typically set fires against outsiders or the community in general. Their target selection was often an unoccupied structure. The nonschizophrenics tended to direct their firesetting against relatives or acquaintances and set fires to residential houses. The nonschizophrenics were likely to be under the influence of alcohol when setting fires, whereas the schizophrenics tended to set fires as a result of delusions and hallucinations.[81]

A Review

The section on "Profiling the Firesetter" briefly discussed many of the common and salient characteristics associated with pathological firesetting. In addition, reference was made to a number of specific firesetter profiles in an effort to provide the reader with a better understanding of the various types of arsonists and their etiological, psychological, and sociological bases, as well as their distinguishing characteristics.

It is interesting to note that pathological arsonists frequently manifest the following cluster characteristics:

1) Under 25 years of age,
2) Victims of pathological and distressed rearing environments,
3) Come from father-absent homes,
4) Mother-dominated,
5) Academically retarded,
6) Slightly below-average intelligence,
7) Emotionally and psychologically disturbed,
8) Socially and sexually maladjusted,
9) Unmarried,
10) Psychologically inadequate and insecure, and
11) Cowardly.

Their firesetting is often immediately preceded by a precipitating stressful situation or experience.

Although pathological firesetters share many common characteristics, a "typical" firesetter just does not exist. Each appears to be unique and motivated by a multiplicity of factors.

These types of arsonists do not appear to be representative of those engaged in arson-for-profit schemes, although they cannot be totally eliminated in all cases.

In preparing a psychological profile of a firesetter, the following variables should also be analyzed:

1) The structure (type of structure burned, location, fire history, ownership, and recent structure history);
2) Time factors (date and time of fire);
3) Identity of reporting person (resident, neighbor, unknown caller, law enforcement officer, etc.);
4) Use or lack of devices or accelerants;
5) Type of devices and accelerants;
6) Style of fire (hastily or methodically set);
7) Occupancy factors (occupied or unoccupied at time of fire and description of occupants—elderly, women, mental patients, etc.);
8) Burn pattern and points of origin, (number of points of origin, exact location of points of origin, and burn pattern);
9) Modus operandi;
10) Evidence of forced entry;
11) Evidence of preparation of structure for burning;
12) Presence of other crimes; and
13) Evidence of similar fires in the community (structures, time variance, and similarities and differences in those fires)

In next month's issue of the *Law Enforcement Bulletin,* arson-for-profit, the hired-torch, and his conspirators will be explored. Hopefully, the profiles provided in this and the next section will assist the investigator in effectively targeting arson in his community. It must be remembered, however, that the profile serves as a tool for narrowing the investigative process. It is not a magical answer to either the prevention or solution to incendiarism. **FBI**

Footnotes

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[64] Nolan D. C. Lewis and Helen Yarnell, *supra,* p. 46.

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[78] Nolan D.C. Lewis and Helen Yarnell, *supra.,* p. 428.

[79] Ibid., p. 376.

[80] Ibid., pp. 377, 428.

[81] Virkkunen, *supra.*

Crime Increase Continues

According to the FBI's Uniform Crime Reports' preliminary annual statistics, the upswing in crime continued as Crime Index offenses soared 8 percent during 1979. All city and county population groups, areas, and regions of the United States shared in the increase.

Director William H. Webster noted that there has not been such a dramatic increase since the 1974 crime surge of 18 percent, followed by the 10-percent increase in 1975.

"The 1979 increase clearly indicates that crime remains one of our Nation's most serious problems," stated Mr. Webster. "I am, of course, troubled by this trend. Every American should be troubled. Crime, after all, diminishes freedom; it casts an intimidating shadow across our free society. All of us—not just law enforcement—all of us should do what we can to reduce crime."

The crime figures are based on the Crime Index offenses reported by law enforcement agencies around the country and include statistics on the violent crimes of murder, forcible rape, robbery, and aggravated assault, and the property crimes of burglary, larceny-theft, and motor vehicle theft.

The greatest increase for the year was experienced in cities outside metropolitan areas where crime climbed 11 percent. Cities over 50,000 in population registered an 8-percent upturn, while in both the suburban and rural areas crime increased 9 percent.

Violent crimes rose 11 percent, with forcible rape and robbery each increasing 12 percent and murder and aggravated assault each rising 9 percent. The only reported decrease was a 2-percent decline in murder in rural areas.

Property crimes rose 8 percent as a whole, with gains in motor vehicle theft of 10 percent, in larceny-theft of 8 percent, and in burglary of 6 percent.

Geographically, all regions showed increases over 1978 figures. The South, the most populous region, experienced the greatest increase, 10 percent. The Northeast, West, and North Central regions followed with rises of 9, 8, and 7 percent, respectively. **FBI**

Police-Community Relations

A defendant awaits the jury's decision.

Police and You
A PUBLIC RELATIONS PROGRAM

By OFFICER JORUNE JONIKAS
Police Department
Carmel, Calif.

"Your Honor, we find the defendant guilty." The verdict, delivered in a decisive, clear voice by the jury foreman, is not unlike those handed down since the inception of the trial-by-jury system hundreds of years ago. This trial, however, will never be immortalized in casebooks, nor will its transcripts be filed away in the courthouse archives to gather dust. And while the proceedings could be considered unconventional by being held in an empty courthouse at night, the participants are even more so—girls and boys, 8 to 13 years of age, who attend the elementary and junior high schools on California's Monterey Peninsula.

An "arraignment" of a case is part of the courtroom procedure explained to the participants.

The trial revolves around an imaginary crime and fabricated evidence and is the culmination of a 5-hour introduction to the California Criminal Justice System presented by members of the Carmel, Calif., Police Department.

If many adults look upon the criminal justice system as sophisticated, complex, and often puzzling, consider how the system would appear to a child. Yet, it is the best means our society has found to maintain peace, protect life and property, and assure justice. A system that touches each and every citizen should not be a mythical beast surrounded by apprehension and bewilderment.

The most visible representative of criminal justice is the police officer. However, with the apprehension and bewilderment often generated by the criminal justice system, the officer emerges, time and time again, as a symbol of distrust in law enforcement.

These premises prompted three employees of the Carmel Police Department to initiate a "Police and You" program designed to make children aware that police officers are not unapproachable entities and the courts are not of a world apart. The program, which has been presented three times during the past year, is divided into two sessions, each a week apart. The first is held at the police department; the second at the county courthouse.

It simplifies matters, of course, if a department is based in the courthouse or if it has offices there, but even if this is not the case, then a courthouse session and tour on site could be eliminated. Instead, community relations officers conducting the tour of the police department could set aside an hour or so and present the courtroom portion of the presentation at the department, using little more than some tables and chairs and a bit of imagination.

Officer Jonikas

William H. Ellis
Chief of Police

With 10 to 16 students participating in each session, the children are divided into smaller groups of 4 or 5 for their initial introduction to the police department. The three "instructors" for the program are police officers and take on the responsibility of explaining the various functions of the police department, its officers, and its support personnel.

One instructor's responsibility involves explaining emergency telephone procedures, radio dispatching techniques, emergency teletype operations, and recordkeeping. Another instructs the participants on the training functions of a department. Special attention is given to descriptions of weapons and explosives, with emphasis being placed on the danger they represent to children and adults alike. This was considered important not only because all children are fascinated by the unusual and unknown but more so because there is a large military installation nearby. The children also witnessed a display of firearms marksmanship when they visited the range.

Patrol cars and police equipment are another instructor's specialty. He also relates the process that a prisoner must go through once an arrest is made. The children are fingerprinted, booked, and spend a few minutes in a cell, while being told the necessity for each step.

What members of one group found most exciting, however, was the actual arrest made while they were learning about the process. They, of course, were kept out of sight of the prisoner, but found the activity intriguing nevertheless.

Rotating each group among the three officers allowed all the participants to see and hear everything without crowding and confusion and gave them the opportunity to ask questions, many of which were of an intelligent and perceptive nature.

Before ending the session at the police department, a crime was staged, using one student as the "criminal," another as the "victim," and a third as a designated witness. The aggressor was "arrested" and the "trial" was scheduled for the following week's session at the courthouse.

Officers of the municipal court made the courthouse available, and Monterey County Sheriff's Office personnel graciously made their facilities at the courthouse substation accessible to the groups.

The public entrance to the courthouse was ignored in favor of the less familiar prisoner's door, in order that the children could follow the path a custodial prisoner takes from a holding cell to the courtroom. They were escorted through the booking room and holding cells and into the prisoner elevator.

Before entering the courtroom, however, there was some deviation in that the students were allowed to do what prisoners are not, that is, briefly tour the building to familiarize themselves with the locations and purposes of the various offices.

Once back on the first floor, the group was led through a back corridor, past judges' chambers, and into the courtroom where everyone was seated in the prisoner's block.

Following a brief explanation of the function of the court and the duties of its various officers, "arraignments" were held, charging each student defendant with a "crime" to which they could relate, such as taking another's lunchbox, riding someone's bike without permission, or pushing a classmate in the hall.

Once the children were introduced to pleas, bail, and court and jury trials through the arraignment procedure, each was assigned a role to play in the upcoming trial. Although everyone wanted to act as attorney, defendant, or witness, some had to be content with a role as juror. However, there was usually enough time to hold a second shorter trial, in which more active roles were assigned to former members of the jury. Parent escorts, too, were welcome to sit on the jury and they always enthusiastically fell into the spirit of the trial.

The trial of the student defendant, arrested the week before, began with a statement of charges, after which the student prosecutor and defense attorney, assisted by one of the instructors, presented their cases, questioned witnesses, raised objections, and finally summed up their arguments to the jury.

After the jury listened intently to the judge's instructions, the bailiff escorted the members to the jury room for deliberation. Following a brief, but usually heated debate, the jurors returned with a verdict. Both guilty and not guilty verdicts have been handed down, and in one case, the defense attorney insisted on polling the jury because he was unhappy with the decision.

Roleplaying took on a very serious and important tone, and the children became so much a part of the proceedings that they continued to argue the merits and deficiencies of each "case" long after it was over.

One of the most gratifying responses was that of the parents who found it intriguing and surprising to debate in the jury room with their fifth-graders, who took their duty seriously and showed a remarkable understanding of their role.

It is extremely satisfying to realize that in the enjoyment of play acting, there was learning. Through this learning process, the criminal justice system became less of a strange beast and more of a comfortable acquaintance. But most gratifying of all is to be greeted as a friend by a child who a short time ago was a stranger. **FBI**

The "jury" in deliberation.

Occupational Stress and Compensation in Law Enforcement

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The importance of improving the health and safety conditions of employees has increasingly received the attention of government agencies, business organizations, and labor unions. Not only are the physical and emotional well-being of workers an issue of humanitarian concern, but they also have a significant legal and economic impact upon the employer. Adverse working conditions can have a detrimental effect upon employee morale, job satisfaction, attendance, and attrition. Ultimately, productivity can be affected. When this occurs, it becomes costly to the organization.

As a consequence, administrators within both the public and private sectors are committing personnel and resources to the development of programs designed to prevent or reduce the adverse effects of physical and psychological stress. Nowhere is this effort more evident than within the field of law enforcement. Innovative programs of physical fitness and psychological services have been established as a response to these concerns. Police administrators have begun to recognize their responsibility to preserve and maintain a healthy, stable, and productive work force by providing necessary services. This article will alert the reader to the necessity of compensating law enforcement personnel as a result of the various stresses associated with the occupation.

Compensation

Compensation may be defined as a payment, indemnity, or benefit given to an employee for a service or loss. It may be provided in the form of a monetary settlement, which includes salary or wages, as well as financial remuneration, after an injury or loss. An example of the latter are the workmen's compensation plans that offer pecuniary settlements to an employee who has suffered a job-related injury. However, compensation does not necessarily have to be in a monetary form—there are several other ways in which an employee can be compensated for his work.

Another method of compensation is provided through early retirement. This frequently occurs when an employee suffers a disability that prevents him from continuing to perform his duties.

Often overlooked as compensation are transfers to less stressful or less sensitive assignments that are provided when it becomes obvious that the employee should no longer function in his original capacity. The employer may also grant a leave of absence to an individual who suffers from a medical or emotional malady.

Preventive or remedial services can be provided by the employer as a form of compensation. Private industry and public service agencies alike have established programs addressing both physical and mental health. Among these programs are scheduled periods when employees may engage in organized recreation. Some industries, most notably chemical and textile manufacturers, periodically evaluate the medical health of their employees in order to detect symptoms of diseases that may be the result of conditions in the work environment.

These diverse forms of compensation have been applied to a variety of occupations. The Federal Government has mandated that certain hazardous occupations in the military service receive higher remuneration or incentive pay. For example, incentive pay is granted for military personnel assigned to submarines or self-propelled submersible vessels used for undersea exploration and research. Personnel also receive special pay when participating in the following:

1) Frequent and regular aerial flight;

2) Parachute jumping and deep sea diving;

3) Demolition of explosives; and

4) Specified research projects as experimental subjects.

The Federal workmen's compensation program permits air-traffic controllers with psychological disabilities to retire at 75 percent of their salary, provided they have been employed for 5 years and their condition has been sufficiently documented. Iron workers, painters, roofers, window washers, and other tradesmen whose work entail an element of danger, such as working at precarious heights, often receive more pay than their counterparts who are not exposed to comparable danger. These examples illustrate the many and varied forms of compensation made available in other occupations.

Compensation In Law Enforcement

Numerous studies have demonstrated that there is an inordinate amount of stress associated with law enforcement. It can also be documented that the effects of stress can have an adverse impact upon the manner in which police officers perform their duties.[1] Beyond affecting a person's mental and physical health, stress can influence individual and collective productivity, as well as the quality of work. Due to the critical nature of police work, it is imperative that law enforcement personnel be emotionally stable.

Since stress is directly attributable to the work environment and the effects of stress can influence the performance and behavior of law enforcement personnel, *provisions must be made to compensate the police employee.* Compensation may not only benefit the individual officer but will also indirectly benefit the organization, and ultimately, the community it serves.

Monetary Compensation

Since occupational stress is an intangible factor, monetary compensation is unrealistic. The causes of stress vary in intensity and effect among individuals. While they can be identified, these stressors defy quantification. Since stress cannot be measured empirically, a standard payment schedule is difficult, if not impossible, to establish.

The incentive pay schedules employed by the military are based upon hazardous duty assignments. While it may appear that compensation is awarded for stressful work, it must be noted that stress and danger are not synonymous. Dangerous or hazardous duty may contribute to stress, but should not be considered the equivalent of stress. In law enforcement, incentive pay for dangerous assignments can impair the proper selection of personnel. Individuals may volunteer for potentially hazardous assignments, such as tactical units or bomb squads, enticed by the additional financial remuneration. As a consequence, the officer essentially becomes a mercenary. In such critical assignments, individuals should be selected for their abilities, not their willingness to expose themselves to danger for financial reward.

Compensating personnel for stress is further complicated because of the different stress levels of law enforcement functions. For example, undercover narcotics work is generally considered to be a highly stressful assignment. The combination of irregular shifts, constant exposure to danger, and the daily requirement to assume different identities, in addition to the normal organizational causes, can produce a higher degree of stress than the more traditional law enforcement role. Not only is there a variation in the extent of stress associated with different assignments, but subtle organizational variations can also induce varying degrees of stress. It is reasonable to conclude that stress will vary according to the nature of the patrol assignment. Factors such as motorized or foot patrol, one-man or two-man vehicle patrol, area of assignment, and shift assignment can all influence the degree of physical and psychological stress. Since patrol strategies must respond to community needs, these factors are constantly changing, and therefore, preclude the provision of a standard compensation schedule.

It has been established that administrative positions are as stressful as patrol positions. Again, it would be most difficult, if not impossible, to assign an appropriate scale of compensation based upon rank and responsibility. For example, a captain who commands a headquarters division may have a more or less stressful job than a captain who commands a patrol division. Undoubtedly, both individuals would have strong feelings about the relative pressures of their individual assignments. However, since stress cannot be measured, any differences between the two positions will remain a matter of conjecture.

While the degree of occupational stress may vary with rank and function, it must also be noted that individuals possess different tolerance levels for stress. Some individuals are more susceptible to the physical and emotional disorders that result from stress. Because individual tolerances may vary with time and experience, this further prohibits the development of a standard compensation schedule.

Recent arbitration has noted the distinction between work-related injuries and illnesses. An Illinois police officer, employed for 3 years in the narcotics division, claimed that he suffered from "anxiety and depressive neurosis" as a result of his assignment. While the city concurred that his work could have contributed to the debilitating illness, his claim was denied because there was no indication that it was the exclusive cause. A Connecticut police officer experienced psychological distress after he shot and killed the assailant who stabbed him and his partner. Yet, because the resultant symptoms of anxiety and fearfulness did not manifest themselves until several months after the incident, the city denied his claim for compensation. The first case exemplifies the cumulative effect of stress, while the latter illustrates the effect of a single significant episode. The fact that both claims were rejected clearly indicates the difficulty in prescribing monetary compensation for stress.

If law enforcement personnel are offered monetary compensation for their exposure to stress, the human dimension of the problem is ignored. By failing to recognize unique individual responses to stress, the employer fails to demonstrate concern for the individual employee. If all of the variables contributing to occupational stress were static, it would be convenient to assign them monetary values. However, the causes of stress are dynamic. Therefore, monetary compensation for occupational stress is neither realistic nor responsible.

"It can . . . be documented that the effects of stress can have an adverse impact upon the manner in which police officers perform their duties."

Removal from the Work Force

To remove an employee from the work environment through premature retirement is also a negative response to the problem. In fact, such action can hardly be considered a response, since it fails to address the needs of the individual worker. While a leave of absence or a transfer for medical or psychological reasons may be considered a form of treatment, they are equally unresponsive if not accompanied by adequate remedial services.

It has become increasingly expensive in terms of time and money to recruit, select, train, and equip law enforcement personnel. To release an employee who is suffering from the effects of occupational stress is costly and wasteful. Manpower, our most precious resource, should be sustained and guarded. The community that supports the police department expects the maintenance and development of its resources. As a public service agency, the law enforcement organization is obligated to protect the investment of the community and to insure the welfare of the employee.

Provision of Services

The most appropriate form of compensation is through the provision of services. Specifically, these services address the prevention and treatment of occupational stress. The strategy most effective in aiding the employee is also the most suitable method for the organization and the community. The police department has wide latitude in the development and implementation of a psychological services program. Generally, options can be grouped under two major headings—"professional" and "in-house" programing.

Professional Programing

A professional program format might include hiring a psychologist to design and implement a program, contracting for services, or using voluntary professionals. The larger metropolitan police departments have made the most progressive achievements toward preventing and treating occupational stress in law enforcement.[2] Several agencies, including those in Los Angeles, New York, Chicago, Seattle, Dallas, and San Jose, have established exemplary programs of psychological services. These departments vary in size from 800 employees to more than 23,000 officers. Yet despite numerous departmental variations, the consensus is that the most effective method of delivering psychological services is through the use of a full-time clinical psychologist. There is general agreement that when personnel are referred to professionals outside the agency, there is no continuity in the treatment of police-related issues. Although any competent psychologist could be of assistance in dealing with ordinary personal problems, police-related problems require the psychologist to recognize the operational character of the department and to be aware of the complexities of the police function.

The employment of a full-time psychologist allows the counselor to become a specialist in the unique problems associated with law enforcement and the specific needs of the agency. His relationship with the department also increases both his credibility and his acceptance by the personnel he serves. Employing a full-time psychologist insures the availability of assistance during critical incidents, and finally, he can establish alliances with administrators to facilitate the treatment of personnel.

Clinical psychologists are generally preferred to psychiatrists as police counselors. Although psychiatrists are licensed physicians and are qualified to prescribe medication, police personnel do not normally require that type of treatment. Should the necessity for prescribed medication arise, a competent psychologist would recognize the exception and make the appropriate referral. Furthermore, since psychologists are usually more research oriented, the agency would benefit from the continuing evaluation of personnel and the development of ancillary programs. These additional programs frequently include the following:

1) Psychological screening of applicants;
2) Spouse orientation;
3) Recruit training;
4) Inservice training;
5) Suicide intervention;
6) Investigative hypnosis; and
7) Hostage negotiation.

Finally, since the most practical consideration for any department is monetary, it should be noted that psychologists are substantially less expensive to employ than psychiatrists.

If it is deemed infeasible or unnecessary to hire a full-time psychologist, the agency may obtain the same services on a part-time basis through a contractual agreement. While a part-time consultant would not offer all of the ancillary services available through a full-time counselor, the agency may find that the former is more cost effective. A major consideration in weighing the choice between a full-time psychologist and a part-time consultant is the size of the department or the number of potential clients.

If it is determined that services could be most appropriately provided through a consultant, the agency has the option of hiring one person, a clinical group, or several professionals. Once again, this decision must be based upon the specific need for service, the department's size, the geographic distribution of agency personnel, and financial considerations.

Another alternative available to an agency that chooses to use the services of a professional is to establish a method of soliciting the voluntary assistance of medical professionals. Many people within the community have distinguished themselves through their willingness to devote their time, energy, and expertise to public service. By using these resources, a department can not only expedite the development of a counseling program but can also cultivate a lasting union with an important segment of the private sector. However, when considering the use of volunteers, the agency must remember that the volunteer's primary commitment is to his occupation. If the availability of the volunteer does not conform to the organization's needs, consideration must then be given to supplementing his services or offering another type of program.

"Since occupational stress is an intangible factor, monetary compensation is unrealistic."

In-House Programing

Strategies are available to police departments that wish to develop in-house capabilities to respond to the problem of occupational stress. Peer counseling is one such strategy. A number of police departments have designated employees as peer counselors and have provided them with the necessary training to offer assistance to personnel within the agency. Perhaps the best known program of this type is located within the Boston police department. The director and the counselors—all veteran patrolmen—include divorcees and recovered alcoholics. The program is based on the premise that a person who has experienced the problems associated with the job makes a more credible counselor. This type of program also satisfies the contention that policemen are inherently suspicious of "outsiders" and will not confide in a mental health professional.

A potential problem with using lay counselors is that they may not be qualified to handle every case. While a peer counselor is generally capable of an initial assessment, subsequent treatment might require professional intervention. Such a system only serves to create an additional barrier between the employee and the professional, without offering any measurable benefits.

Another problem encountered with a peer counselor program involves guaranteeing the client's anonymity and the confidentiality of his problem. The psychologist or psychiatrist is bound by law and professional ethics to maintain the confidentiality of his consultations. There is no such assurance of confidentiality when dealing with a lay intermediary. The reassignment or promotion of a peer counselor could produce serious questions regarding the confidentiality of the system. Furthermore, it is doubtful that a supervisory officer would confide in a subordinate. Therefore, since police administrators are not immune to the effects of occupational stress, the system would effectively eliminate a portion of the service's potential clientele.

Another in-house service may be provided through training. A graduated program of continuing education could be implemented through recruit, inservice, and supervisory training. A specific training curriculum pertaining to the causes and effects of occupational stress in law enforcement is most effective if implemented as a component of a counseling program. However, training by itself can be successful in inoculating the employee against the adverse effects of stress.

Recruit training is one of the most important elements of stress prevention. Reiser has noted that "officers can be taught to anticipate stressful situations, to become knowledgeable about the internal and environmental factors affecting decisionmaking under stress, and to cope more effectively with difficult situations in the field." [3] By identifying the sources and the results of job stress, a department can effectively defuse the "John Wayne syndrome" among its novice officers. If it is available, it is also critically important that recruits be informed of the psychological counseling service. If an officer is assured of the integrity of the counseling program upon his initiation into the agency, he will be less reluctant to use the service if the need arises.

Inservice and supervisory training should reinforce the coping mechanisms introduced during recruit training. More importantly, inservice training provides the means to introduce techniques available to reduce stress. Procedures such as regular physical exercise, proper nutrition, and relaxation techniques offer the employee a means to increase his tolerance to stress. Supervisors should be exposed to the techniques of psychological counseling, not trained as therapists, but sensitized to the signs of mental disorganization. Once trained to identify the symptoms of stress, they can then direct their subordinates to the available treatment programs.

Spouse orientation is another strategy that will heighten the employee's tolerance to stress. The primary function of this program, which should be conducted concurrently with recruit training, is to identify the causes and effects of occupational stress upon the employee and his family. The National Advisory Commission on Criminal Justice Standards and Goals has observed the importance of stabilizing police marriages through spouse orientation. "Policemen's wives have an enormous effect not only on their husband's efficiency on the job but also on their general well-being. Adequate orientation and ongoing group counseling programs help new policemen's wives adapt to the requirements of their husband's occupation." [4]

Conclusion

Law enforcement administrators must recognize their responsiblity to maintain a healthy, stable, and productive work force. Considerable time and effort have been expended to establish standards of physical fitness, intelligence, character, and emotional stability as necessary prerequisites for employment. Efforts to recruit the most desirable candidates is the primary concern of most law enforcement executives. Having established these standards, it follows that they should be maintained throughout an employee's career. By offering the employee compensation through the provision of psychological services, the law enforcement administrator will insure the maturation of the community's initial investment. **FBI**

Footnotes

[1] For a full discussion of the causes and effects of occupational stress in law enforcement see:
William H. Kroes, *Society's Victim: The Policeman*, (Springfield, Ill.: Charles W. Thomas, 1976.)
William H. Kroes; Margolis, Bruce L.; and Hurrell, Joseph J., Jr. "Job Stress in Policemen." *Journal of Police Science and Administration*, No. 2, 1974, pp. 145–55.
William H. Kroes, and Hurrell, Joseph J., eds., *Job Stress and the Police Officer*. (Cincinnati, Ohio: U.S. Department of Health, Education and Welfare), 1975.
Martin Reiser, "Some Organizational Stresses on Policemen." *Journal of Police Science and Administration*, No. 2, 1974, pp. 156–59.
Martin Reiser, "Stress, Distress, and Adaptation in Police Work." *The Police Chief*, vol. 43, January 1976, pp. 24–27.
John G. Stratton, "Police Stress: An Overview." *The Police Chief*, vol. 45, April 1978, pp. 58–62.

[2] For a description of services available through these programs see:
S.A. Somodevilla, "The Psychologist's Role in the Police Department." *The Police Chief*, vol. 45, April 1978, pp. 21–23.
John G. Stratton, "The Department Psychologist: Is There Any Value? *The Police Chief*, vol. 44, May 1977, pp. 70–74.
Marcia Wagner, "Action and Reaction: The Establishment of a Counseling Service in the Chicago Police Department." *The Police Chief*, vol. 43, January 1976, pp. 20–23.

[3] M. Reiser, "Mental Health in Police Work and Training," *The Police Chief*, vol. 41, August 1974, p. 52.

[4] President's Commission on Law Enforcement and Administration of Justice, Task Force Report, *The Police* (Washington, D.C.: U.S. Government Printing Office, 1967), p. 276.

Documentary Search Warrants

A Problem of Particularity

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

The increase in white-collar crime in recent years has been dramatic. Experts estimate that its annual cost in this country alone exceeds $40 billion.[1] Its victims are diverse and not only include large businesses but individual consumers.

The suggestion has been made that investigation into white-collar crime has been neglected and that prosecutive accomplishments have been something less than a total success.[2] Obviously, there are many reasons for this, but one significant factor must be the difficulty of obtaining evidence of guilt. Unlike traditional personal and property crimes where the criminal instrumentalities are apparent—the "smoking gun" or crowbar left at the scene—evidence necessary to convict in a complex business scheme is not so apparent. The Government's proof often requires the reconstruction of activities conducted over several years and almost assuredly depends on the gathering of documentary evidence. This article will examine the legal problems of applying a traditional law enforcement tool, the search warrant, to the task of collecting evidence of modern, sophisticated white-collar crime.[3]

Advantages of a Search Warrant

It is now apparent that investigators may seize any evidence which they have cause to believe will be incriminating.[4] This includes documentary evidence.[5] As stated by the U.S. Supreme Court nearly 60 years ago:

> "There is no special sanctity in papers, as distinguished from other forms of property, to render them immune from search and seizure. . . ."[6]

Several methods are available to officers faced with the task of developing documentary evidence. First, a request for production can be made to the custodian of the documents. The response, however, may be a refusal, especially if the custodian is a suspect. Second, a subpena duces tecum can be sought directing production of the documents. But subpenas are subject to motions to quash or make definite and certain, both time-consuming processes. The weakness of either method is obvious—a delay may occur. And once a suspect is alerted to the Government's efforts to obtain possible incriminating documents from him, he has a motive to alter or destroy the evidence. Because, documents are easily destructible, the loss of evidence when either of these methods is used is quite probable. This would seem especially true when data are stored in computers.[7]

An effective solution to this problem of disappearing evidence is the search warrant. Because only Government personnel are present when warrants are issued, and because no advance notice is required prior to execution,[8] the element of surprise necessary to prevent destruction is present. Within the past 4 years, the Supreme Court has upheld the use of search warrants for seizures of documents both from the premises of defendants[9] and third parties not suspected of criminal complicity.[10]

Another advantageous feature of the search warrant should be identified. It is now clearly established that the fifth amendment prohibition against compulsory self-incrimination is not violated when officers seize documents under the authority of a search warrant. This is true even if the seized documents had been prepared by the defendant himself. As noted by the

"The degree of specificity required varies with the circumstances and nature of the property sought and the right which is protected."

Supreme Court in a recent case involving the seizure, under a warrant, of documents from the law office of a fraud suspect:

> " '(T)he constitutional privilege against self-incrimination . . . is designed to prevent the use of legal process to force from the lips of the accused individual the evidence necessary to convict him or to force him to produce and authenticate any personal documents or effects that might incriminate him.' " [11]

When documents are seized under the authority of a warrant, the suspect *himself* is not compelled to do anything. He is not required to help locate the documents nor is he compelled to produce or authenticate them. The officers themselves locate and remove the evidence. And without some element of compulsion, the privilege against self-incrimination is not violated.

By contrast, fifth amendment values may be implicated when officers use a subpena to obtain records. In the language of the Supreme Court, "the Fifth Amendment may protect an *individual* from complying with a *subpoena* for the production of his personal records in his possession because the very act of production may constitute a compulsory authentication of incriminating information. . . ." [12] (This limitation has application only to documents held by a sole proprietor or private individual. It has long been recognized that collective entities, such as corporations and some partnerships, cannot assert the fifth amendment, even if the subpenaed documents would incriminate one of the organization's officers.) [13]

Search warrants for personal documents and business records are subject to the same legal requirements imposed on other search warrants. Discussed below is one of those requirements which takes on special significance when the object of the warrant is documentary evidence.

Particularity of Description

The fourth amendment to the U.S. Constitution requires that search warrants particularly describe the "things to be seized." This is to make the search as precise as possible and avoid unnecessary rummaging. Specifically describing the objects of the search permits the judge issuing the warrant to make the determination of what items should be taken. If the warrant fails to describe narrowly the property, the decision to seize becomes an administrative one made by the searching officer, and the warrant will be condemned as a "general warrant."

The degree of specificity required varies with the circumstances and nature of the property sought [14] and the right which is protected. For example, a higher standard is imposed on warrants for items which involve first amendment considerations.[15] By contrast, when the property sought is contraband, general descriptions often suffice. This is because contraband is illegal to possess. And when the items named offend the law, there is no danger a suspect will be deprived of any lawful property.[16] Some stolen items can be adequately described by physical description and serial number, or perhaps model number, brand name, and quantity. But describing business documents presents unique problems. Serial numbers and brand names are unavailable. Yet, the fourth amendment's mandate of particularity must be satisfied. The following discussion outlines some of the approaches to this problem which have met with approval in the courts.

Many times, investigators will be aware of specific documents being sought. This is often the case when the described items are stolen papers. For example, in a case entitled *In Re Search Warrant,*[17] Federal agents obtained a warrant to search for documents stolen from the U.S. Government. The warrant described many of the items as individual documents, designating them by type (memo, report, etc.), date, subject, author, and addressee. This language was quite sufficient to pass the constitutional test of specificity. Officers applying for documentary search warrants should consider using similar descriptive terms whenever possible.

But often the task is not that simple. "Where the search is for business records generally, as opposed to a specific record, a general description is often all that is possible due to the general nature of the documentary evidence sought." [18] In that event, the searching officer can only "be expected to describe the generic class of items he is seeking." [19]

In some instances, generic descriptions (descriptions by class or group) alone may be sufficient.[20] But usually a general description of documents must be qualified by a standard to enable the executing officers to separate the papers to be seized from the general class of documents described. This standard is called a limiting phrase.

There are many possibilities for drafting limiting phrases. One is to limit the generic descriptions by referring to a smaller identifiable category within the class. For example, in a recent Oregon case,[21] a defendant was convicted of disseminating obscene material. During their investigation, officers had obtained a search warrant for the movie house where the allegedly obscene films were shown. Their purpose was to establish documentary proof of the defendant's ownership and possession of the theater. The warrant contained the generic description "business records," followed by the limiting phrase "pertaining to the ownership of the Star Theatre located at. . . ." The court noted that the generic term "business records" was impermissibly general standing alone. But the use of the limiting phrase gave "judicial direction to the officer as to what among the general class of 'business records' (was) to be seized and what (was) to be left." [22] The warrant was upheld.

Another possibility is to limit by reference to a specific crime or event. An example appears in *United States* v. *Scharfman.*[23] Officers obtained a warrant to search a store for stolen furs. To enable them to search for documentary evidence of the defendant's involvement in the sale of the stolen furs, the descriptive phrase "books and records" was added to the warrant. Standing alone, this phrase clearly would be condemned as being too broad. It would have authorized seizure of every document in the store, whether or not related to the stolen furs. However, following "books and records," the warrant contained the limiting phrase "as are being used as means and instrumentalities of the (theft of fur articles)." The court concluded that this limiting phrase restricted the search to documents related only to the stolen furs. The warrant was thus adequately particularized.

Several courts have been critical of limiting phrases which limit the search merely by reference to a broad criminal statute. For example, *United States* v. *Roche* [24] was a case involving an investigation into an extensive automobile insurance fraud scheme. A warrant was issued which authorized seizure of a wide range of documents described in generic terms (books, records, account journals, invoices, etc.). A limiting phrase was also included which restricted the generic description to "evidence . . . of the violation of Title 18, United States Code, Section 1341."

The court of appeals held that this description made the search impermissibly broad. It reasoned that section 1341 (the Mail Fraud statute) makes illegal *all* frauds that use the mails, and the warrant would have authorized a general search for evidence of any type of mail fraud. Because the affidavit only established probable cause to believe records of a motor vehicle insurance fraud were on the premises, searches conducted pursuant to the warrant were invalid. The court strongly suggested that the warrant would have been valid had it limited seizure to records relating to automobile insurance. The description would have been even more insulated from attack had it further narrowed the documents to be seized by reference to category (liability, collision policies, etc.), specific time periods, and known victims of the fraud.

Using the benefit of hindsight, it is possible to reconstruct a description of the documents sought in *Roche* as follows:

> "Books, records, account journals, invoices, etc. . . (listing all known classes of documents), covering the period 1/1/78–1/1/79, pertaining to motor vehicle liability and collision insurance, which documents constitute evidence of a violation of T. 18, U.S. Code, Section 1341 (Mail Fraud)."

Note that this description begins with a reference to the broad generic class of items sought (books, records, etc.) and then through the use of limiting phrases, narrows the general class by time period (1/1/78–1/1/79), category (liability and collision insurance), and type of offense (mail fraud.) The result is language specific enough to enable an officer executing the warrant to distinguish between innocent documents and those which constitute evidence.

In most instances, the limiting phrase will appear in the warrant itself. This is because it is the *warrant* that is the object of the fourth amendment's specificity requirement. But under some circumstances limiting language may appear in the *affidavit,* which is the supporting document containing the statement of probable cause. It is frequently advantageous to the prosecution to be allowed to refer to the affidavit for descriptive language, because the affidavit usually contains a very comprehensive account of the criminal activity and the items sought.

"Search warrants for personal documents and business records are subject to the same legal requirements imposed on other search warrants."

In order to limit a warrant's broad description by referring to the specific language in the affidavit, the affidavit must accompany the warrant, and the warrant must contain words of reference incorporating the affidavit.[25] It is also advisable to physically attach the affidavit to the warrant. Then by leaving a copy of both at the search location, the purposes of the fourth amendment's specificity requirement are satisfied (limit the discretion of the executing officers and give notice to the party searched).

A good example of the use of this technique is the case of *In Re Search Warrant,*[26] discussed earlier. The search warrant contained a lengthy description of specific documents, followed by the following general language:

> "Any and all fruits, instrumentalities, and evidence (at this time unknown) of the crimes of conspiracy, obstruction of justice and theft of government porperty (sic) . . . *which facts recited in the accompanying affidavit make out.*" [27]

The defense contended this language granted the investigators authority to search for and seize *any* evidence of conspiracies to steal Government property and obstruct justice and amounted to a general warrant. The court of appeals rejected this contention and ruled that the italicized phrase in the description incorporated into the warrant the attached 33-page affidavit. Because the affidavit went into great particularity regarding the offenses that the documents sought were designed to prove, precise limits were placed on the searching agents. They were only authorized to seize evidence of the conspiracies described in the "accompanying affidavit."

It is noteworthy that in several other recent document search cases, reviewing courts have suggested that the generality of the warrants could have been saved by the specificity of the affidavits, if the affidavits had been served with and incorporated into the warrants.[28] Investigators contemplating the preparation and service of documentary search warrants for the detailed examination of voluminous records should consider the use of this procedure.

Catch-All Phrases

Nowhere is the tension between the fourth amendment's particularity requirement and an officer's desire to seize business records more noticeable than in those cases in which a warrant's description includes a broad "catch-all" phrase (general reference to unknown documents). Such phraseology was the subject of recent Supreme Court scrutiny in *Andresen* v. *Maryland.*[29]

Andresen involved an investigation of fraudulent real estate activities in Maryland. In the course of the investigation, officers obtained a search warrant for the defendant's law offices. The warrant's description named approximately 20 specific generic classes of documents which were limited by the phrase "pertaining to sale, purchase, settlement and conveyance of lot 13, block T. . . ." It also included the following "catch-all" phrase: "[t]ogether with other fruits, instrumentalities and evidence of crime at this time unknown." [30]

The defendant conceded that the generic descriptions and the limiting phrase were models of particularity, but contended that the quoted catch-all language rendered the warrant fatally general because it authorized the search for evidence of other "unknown" crimes for which no probable cause had been established. The Court disagreed and held that the challenged phrase was not a separate sentence, but rather appeared at the end of a lengthy sentence which included the generic descriptions and limiting phrase noted above. Thus the word "crime" in the catch-all language did not refer to other unrelated offenses, but only to the crime described in the sentence in which it appeared (fraud related to lot 13T). As such, it did not authorize a general search for evidence of other crimes.

In reaching its decision the Court appeared to acknowledge that in some cases officers will not know the precise nature of all the documents needed to prove their case.[31] Probable cause may exist to believe that relevant documentary evidence is present, but a particular description is impossible. A catch-all description may "be the very best they can provide." [32] This would seem especially true in complex cases, such as antitrust investigations or real estate schemes, "whose existence (can) be proved only by piecing together many bits of evidence." [33]

A word of caution should be stated here. Prudent officers would be wise not to include broad catch-all phrases as standard "boiler plate" language in all warrants for documentary evidence. The few cases which have approved the use of such phrases involved warrants in which the challenged language followed "a lengthy list of specified and particular items,"[34] limited by reference to a specific crime. Because "the law is still largely unformed in this difficult area,"[35] it would be wise to restrict the use of catch-all phrases to cases in which similar conditions exist.

Conclusion

The task of obtaining documentary evidence in white-collar crime investigations poses special problems. Because documents are easily destructible, the use of search warrants is often advantageous. To be lawful, search warrants must satisfy the particularity requirement of the fourth amendment which requires a specific description of the documents to be seized. But many times the precise nature of the records sought is not known in advance. To resolve this dilemma, several courts have indicated that generic descriptions of the documents (descriptions by class or category) are permissible if followed by limiting language enabling the executing officers to separate the papers to be seized from the general class of documents described. Limiting phrases may narrow the general class of documents by reference to time periods, category, type of offense involved, or specific events or individuals.

In some instances, broad catch-all language may be used if included in a description which contains a lengthy list of specified documents, limited by reference to specific crimes.

To be sure, there is no "litmus paper" test for determining whether a warrant's descriptive language meets the standard mandated by the fourth amendment. Many subtle factors are considered by reviewing courts when examining a warrant for constitutional sufficiency. Nevertheless, it may be helpful to officers engaged in the difficult task of drafting documentary search warrants to ask themselves this simple question. "What documents would this warrant authorize me to seize"? If the answer is, "only those which I have established probable cause to believe are evidence of the crime under investigation," the warrant most likely will be upheld. However, if the answer is, "read literally, this warrant would permit the seizure of documents other than those for which probable cause has been established," the warrant may be overly broad and should be redrafted.

Footnotes

[1] Chamber of Commerce of the United States, *White Collar Crime* (Washington, D.C.: Chamber of Commerce of the United States, 1974), p. 6.

[2] A. Bequai, *White-Collar Crime: A 20th Century Crisis,* at 5 (1978).

[3] It should be emphasized that this article only discusses the seizure of business records and stolen documents. It does not address the special first amendment problems raised in obscenity cases when warrants authorize seizure of magazines or "books, and the basis for their seizure is the ideas which they contain." *Stanford* v. *Texas,* 379 U.S. 476, 485 (1965).

[4] *Warden* v. *Hayden,* 387 U.S. 294 (1967) (abolishing "mere evidence" rule).

[5] See *Abel* v. *United States,* 362 U.S. 217 (1960) (personal papers seized during search of accused's hotel room); *Marron* v. *United States,* 275 U.S. 192 (1927) (business records seized in search of accused's business).

[6] *Gouled* v. *United States,* 255 U.S. 298, 309 (1921).

[7] For a discussion of a case involving wholesale alteration and erasure of computer tapes, see T. Whiteside, *Computer Capers,* at 17 (1978) (discussion of the Equity Funding fraud.)

[8] Of course, officers contemplating forcible entries to premises must comply with their respective announcement statutes. See *Sabbath* v. *United States,* 391 U.S. 585 (1968).

[9] *Andresen* v. *Maryland,* 427 U.S. 463 (1976).

[10] *Zurcher* v. *Stanford Daily,* 436 U.S. 547 (1978). Officers should be aware that a number of legislatures have restricted, or are considering restricting, the use of search warrants directed at the premises of innocent third parties. For example, bills now pending in Congress would require the use of subpenas, rather than search warrants, unless the Federal agents could show reason to believe the use of subpenas would result in the destruction of evidence. See S. 1790, 96th Cong., 1st sess. (1979); H.R. 3486, 96th Cong., 1st sess. (1979). The legislatures of California and Montana have already enacted similar statutes. And recently, the Minnesota Supreme Court held that a search warrant for documents in possession of a third-party attorney violated State law unless the attorney was also involved in the wrongdoing. The court indicated a preference for a less intrusive method, such as a subpena duces tecum directed to the lawyer. See *O'Connor* v. *Johnson,* 287 N.W. 2d 400 (Minn. 1979).

[11] *Andresen, supra* note 9, at 475 (1976), quoting *United States* v. *White,* 322 U.S. 694, 698 (1944).

[12] *Andresen, supra* note 9, at 473, 474 (emphasis added).

[13] See *Wilson* v. *United States,* 221 U.S. 361 (1911) (corporation); *Bellis* v. *United States,* 417 U.S. 85 (1974) (dissolved law partnership).

[14] See La Fave, *Search and Seizure; Course of the True Law,* 1966 U. Ill. L. Rev. 255, 268.

[15] See *Stanford* v. *Texas, supra* note 3.

[16] A good example is the Prohibition Era case of *Steele* v. *United States,* 267 U.S. 498 (1925), in which the Supreme Court upheld the descriptive phrase "cases of whiskey."

[17] 572 F. 2d 321 (D.C. Cir. 1977), *cert. denied,* 435 U.S. 925 (1978).

[18] *State* v. *Tidyman,* 568 P. 2d 666, 671 (Or. App. 1977).

[19] *James* v. *United States,* 416 F. 2d 467, 473 (5th Cir. 1969), *cert. denied,* 397 U.S. 907 (1970).

[20] Some courts have approved broad generic descriptions when the evidence sought is very similar to other innocuous items and "for all practical purposes the collection (can) not be precisely described for the purpose of limiting the scope of the seizure." *United States,* v. *Cortellesso,* 601 F. 2d 28, 32 (1st Cir. 1979). In those cases the supporting affidavit must show that a large collection of similar items are present and explain how the officers will distinguish the suspected items from the innocent ones. And when the property sought is contraband, generic descriptions are usually sufficient. See note 16, *supra.* (Of course, documents are hardly ever characterized as contraband.)

[21] *State* v. *Tidyman,* 568 P. 2d 666 (Or. App. 1977).

[22] *Id.* at 672.

[23] 448 F. 2d 1352 (2d Cir. 1971), *cert. denied,* 405 U.S. 919 (1972).

[24] 614 F. 2d 6 (1st Cir. 1980).

[25] See *United States* v. *Johnson,* 541 F. 2d 1311, 1315 (8th Cir. 1976); *Moore* v. *United States,* 461 F. 2d 1236 (D.C. Cir. 1972); *Frey* v. *State,* 3 Md. App. 38, 237 A. 2d 774 (1968).

[26] 572 F. 2d 321 (D.C. Cir. 1977), *cert. denied,* 435 U.S. 925 (1978).

[27] *Id.* at 323 (emphasis added).

[28] See *United States* v. *Roche,* 614 F. 2d 6 (1st Cir. 1980); *Application of LaFayette Academy, Inc.,* 610 F 2d 1 (1st Cir. 1979).

[29] 427 U.S. 463 (1976).

[30] *Id.* at 479.

[31] *Id.* at 482 n. 11.

[32] *United States* v. *Abrams,* 615 F.2d 541, 548 (1st Cir. 1980) (Campbell, J., concurring).

[33] *Andresen, supra* note 9, at 480 n. 10.

[34] Id. at 480; See also *In Re Search Warrant, supra* note 26, at 326–327.

[35] *United States* v. *Abrams, supra* note 32, at 549.

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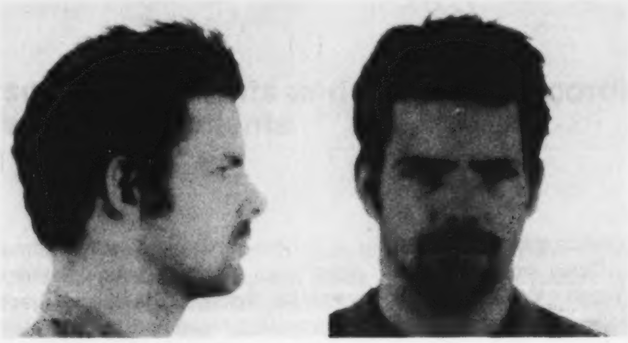

Photographs taken 1976.

Ronald Dwane Brook

Ronald Dwane Brook, also known as Chino Brook and Ronald D. Brook.

Wanted For:

Interstate Flight—Escape.

The Crime

Brook, who is being sought as a prison escapee, was serving at the time of his escape a life sentence for sexually assaulting a young woman and then brutally murdering her by shooting her in the back with a .44-magnum revolver.

A Federal warrant was issued for his arrest on May 25, 1978, at Monterey, Calif.

Criminal Record

Brook has been convicted of murder and burglary.

Description

Age	27, born December 26, 1952, San Francisco, Calif.
Height	6′1″ to 6′3″.
Weight	175 pounds.
Build	Medium.
Hair	Dark brown.
Eyes	Blue.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Television and radio repairman, ranch hand.
Scars and Marks	Scars on both palms and right elbow.
Social Security No. used	551-82-4377.
FBI No.	866 745 H.

Caution

Brook should be considered armed, dangerous, and an escape risk.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

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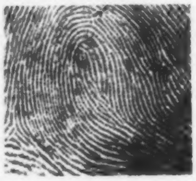

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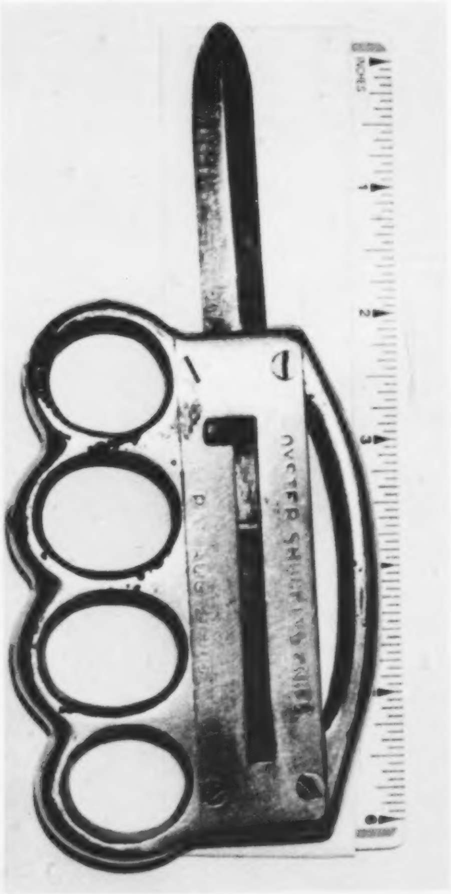
The unusual weapon featured on the inside back cover of the May 1980 issue was submitted by the Newark, New Jersey, Police Department.



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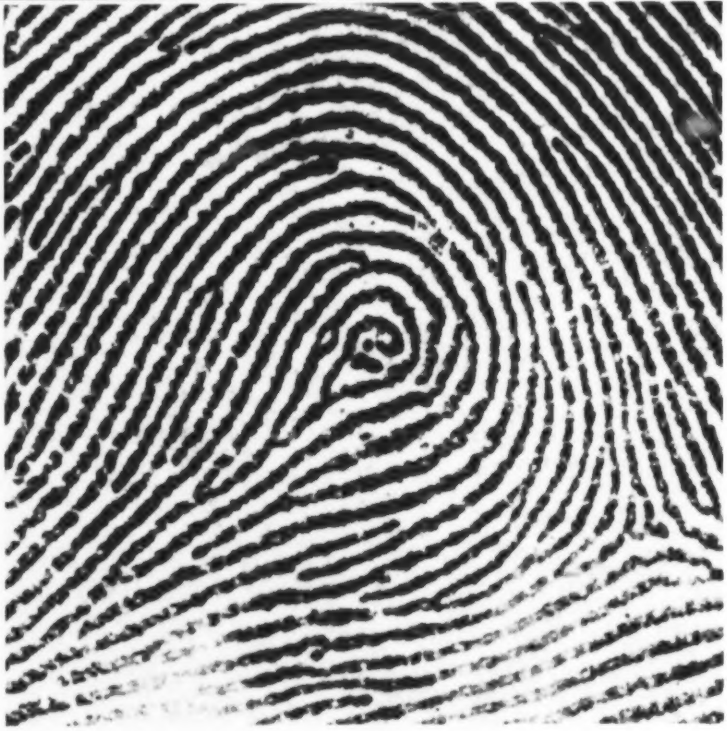

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AUGUST 1980

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Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

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Police Cynicism

A Cancer in Law Enforcement?

By KENNETH R. BEHREND

Chief of Police
Lewiston, Idaho

What is cynicism? Where does it come from? How do we guard against it? Are there law enforcement personnel who are cynics? The answers to these questions are of primary concern to all peace officers, regardless of rank.

Cynicism, like cancer, does not respect rank, status, or position. It can frequently grow within individuals or within our organizations without us realizing its presence. Other parallels can be drawn between the disease and the cause and effect of police cynicism. If both are detected in the early stages of development, they can be cured. If left to nurture to their potential, they can and frequently do become terminal to our careers, our lives, or both.

Cynicism can be defined as a means to display an attitude of contemptuous distrust of human nature and motives. When we hear the term "police cynicism," it frequently creates visions of something evil, dark, foreboding, and diabolical. It corrupts and destructs the total image of a police officer or organization.

Numerous studies have been conducted on this topic, and excellent research material is available based on sound empirical data. However, this article approaches the subject from a police administrator's viewpoint, with the hopes of providing useful information to other police officers, as opposed to an academic or clinical review of the subject.

Cynicism does exist in law enforcement and perhaps is more widespread than many of us realize. The symptoms are frequently overlooked, and people are generally not referred to as "cynics" until they exhibit the advanced stages of the problem. It should be realized, however, that before reaching the advanced stage, there is an incubation period that produces early warning signs as to the presence of attitude disorders that can culminate in cynicism. The inherent stress and frustration found in the law enforcement profession provides an ideal breeding ground for the disorder.

Young officers entering law enforcement frequently have deep feelings of commitment and a sense of entering a field of endeavor which is worthwhile and meaningful to society. Many of them notice a gradual change in their relationship with friends or even relatives. How often has it been said, "Now that Jim is a cop we gotta be careful or he will arrest us." As seemingly innocent as this may be, it may cause the officer to withdraw and minimize his association with past friends. Conversely, he usually increases his association with other law enforcement personnel. The result is the officer unknowingly starts a slow withdrawal from society. As contact with peers increases, both on and off the job, the main topic of discussion becomes the job. The officer hears colleagues tell of their experiences and he relates his own experiences in the same fashion. He listens to the frustrations other officers encounter with the job and in society and starts to identify those frustrations as his own. Early in his career, he is eager to return home after a tour of duty and recount the new and exciting experiences he has had. As the excitement wanes and bizarre experiences become commonplace to his world, questions from his spouse as to the occurrences of the day are frequently shrugged off with a reply of "Nothing much, a couple of stick-ups, that's all!" The officer faces a continual exposure to the worst of society—homicide, suicide, violence, rape, broken homes, shattered lives, transients, alcoholics, delinquents, addicts. He witnesses daily man's inhumanity to his fellow man and the inability of numerous residents of his city to cope with the pressure of society. Without knowing what is happening to him, he starts to withdraw from society. He begins to reach a point where it becomes an "us against them" world. The "us" are his fellow police officers, the only friends he believes he has, and "them" becomes the remainder of society. Throughout his early development as a police officer, he is constantly reminded there are those in society who would take his life. He is constantly taught to be on his guard, to be suspicious, to trust no one. Thus, the withdrawal continues. He discontinues old haunts and habits because they place him in a position where he is exposed and vulnerable. Instead of responding favorably to a request from his spouse for an evening out, he replies, "I'm not going to go down to the local nightspot and associate with the same people I throw in jail."

Chief Behrend holds an informal rap session with members of his department.

The virus of cynicism has been nurtured, and if allowed to remain untreated or unchecked, can become terminal for the officer's career and perhaps even to his life.

The foregoing is a graphic description of one form of cynicism. There are other ways it can flourish, and cynicism is not restricted to entry-level personnel. Take, for example, the older, experienced officer who is frustrated by the American system of criminal justice and becomes disenchanted with what he sees as roadblocks to prosecuting criminals—prosecutors who refuse to accept cases, side deals made outside the courtroom with defense attorneys, plea bargainings, and court decisions that appear to protect the criminal at the expense of society. All of these elements have a tendency to break down the officer's regard for the system and can cause him to withdraw from the established norm and move toward a cynical or distrustful attitude.

Another common form in which the hydra-head of police cynicism may materialize is the officer who becomes frustrated after numerous attempts to be recognized, to have his work praised, or to receive a promotion. After repeated tries to grab the golden ring, he becomes frustrated with the system, withdraws from competition, exhibits feelings of bitter contempt, and ridicules others who continue to try. His world becomes one of existing and trying to provide a defense against the system he sees as threatening; he withdraws from the system and finds fault with it at every opportunity.

The administrative ranks or the top police administrator himself are not immune to cynicism. Continual criticism of his endeavors, combined with the frustration of attempting to deliver police services demanded by the community while being restricted by inadequate resources, can cause police administrators and entire law enforcement organizations to assume a cynical attitude toward governing bodies and the community at large. The administrator complains he is not furnished the resources he needs to obtain the expected results and eventually recedes into the "us against them" syndrome. In this case, "us" is the police agency and "them" becomes city hall, the county commissioners or another funding authority, and more importantly, the community.

A newspaper editor addresses officers at a police department training session.

The administrator places the fault of his plight on citizens for their inability or unwillingness to support his budget requests and on the governing body for their lack of sensitivity to his needs. The agency withdraws from the community under the leadership of the administrator and becomes wrought with self-pity and apathy—incompetent to the delivery of quality public service.

The first and perhaps best line of defense against allowing police cynicism to infect you or your agency is simply acknowledging that it does exist. It is real, and as such, can be prevented or corrected. Being aware of what it is in layman's terms is an asset in identifying the symptoms and taking corrective action or instituting procedures which will minimize its occurrence.

Training bulletins or sessions for all ranks within an organization which address the topic are of considerable benefit in educating personnel as to the meaning of the term and the symptoms that identify it. Some agencies make available competent professional assistance to conduct periodic training sessions which use self-analysis, group settings, and other recognized techniques to reveal latent tendencies in participants that harbor the potential of future cynicism. Considerable skill and knowledge are prerequisites to conduct successfully such a training session. However, most departments possess qualified personnel who can discuss the subject in meaningful terms. By educating our personnel that cynicism is a reaction to conditions that can strike anyone and expose the phenomenon so that it can be understood, we have taken the first step toward preventing its occurrence. Training sessions which use community resources outside the department, such as social service agencies, community organizations, etc., are beneficial not only because of the subject matter under discussion but also because they place the officer in contact with other segments of the community. They expose him to other viewpoints and values that are usually different from those of a police organization and help the officer understand his role in relation to society.

A stop and talk program can keep an officer in touch with the community he serves.

When demands for service permit, a "stop and talk" program is an excellent method of placing an officer in touch with the community. The program encourages a one-on-one dialog between a law enforcement officer and a citizen in a nonenforcement setting and exposes an officer to the side of society from which he normally drifts in his daily duties. Usually, his contacts are with victims, witnesses, suspects, or traffic offenders and are conducted in an official capacity. If a stop and talk program is encouraged, the officer has an opportunity to contact citizens on their terms, and the feedback he receives can be a valuable experience for him and important to the organization as a whole in measuring the community's perceptions of the police.

Individual counseling or instruction remains an option for an employee who may be experiencing difficulty in defining his role in society as a police officer. In serious or advanced cases, professional counseling may be required to help an officer adjust his attitude; however, in the majority of instances, well-oriented, competent supervisors can furnish the necessary assistance.

Practically all law enforcement agencies use some form of performance evaluation forms. The existing systems differ widely, and some serve a multiplicity of purposes, such as determining merit increases, promotion, evaluation of job performance, and other factors. Some systems are designed with the total objective of improving job performance. In either case, the system can be remodeled to provide a vehicle for periodic feedback to an officer concerning his relationship with the community and his commitment to the department's mission.

Occasional, informal "rap sessions" between the top administrator and members of his organization are another tool that can be used to provide information, dispel rumors, and establish the philosophy of the administration. Such sessions are voluntary and informal in nature, with rank being set aside while items of general interest are discussed. The administrator has an opportunity to establish rapport, dispense his philosophy, and receive feedback on individual attitudes at the same time. Through the informal session, the administrator has the opportunity to present an experienced, well-oriented viewpoint on the role of the police in society, as well as influencing individual lifestyles through his opinions and comments. An administrator may believe his time is too valuable for such a limited participation; however, it must be remembered that it is a communications process and the administrator is receiving as well as giving. In addition, word will rapidly spread in the organization concerning what the chief thinks about a particular subject.

Creating an environment that encourages officer involvement in community events and programs is another method of insuring officers are exposed to the community they serve. Every community hosts social events, sporting events, community projects or appoints boards, commissions, or committees which serve the community. By encouraging officers to assume an active role in community events, a two-fold purpose is accomplished. Officers stay in touch with the community, and an opportunity exists to expose citizens to department members. Additionally, another benefit is derived from such a practice. Through their association with other people, officers develop friends and acquaintances who are not members of the criminal justice system. Such contacts are valuable to an officer in maintaining a healthy perspective of his role in the community. The same purpose is accomplished by encouraging and supporting the enrollment of police officers in service clubs and civic organizations. The concept behind these endeavors is to break down the barriers of provincialism and encourage law enforcement personnel to be an active party of society, as opposed to the smaller arena of circulation available when contacts are restricted to other law enforcement personnel. Assuming such a role places an officer in touch with the positive elements of society, instead of continual exposure to a small, negative, and sometimes violent segment of society.

"Recognizing and understanding cynicism is the first line of defense against its continual growth."

Police administrators should review the internal policies and procedures of their respective organizations to insure the philosophy of the organization advocates an awareness of community values and does not foster an isolationist attitude with respect to the department and the community.

The internal integrity of the promotional and other "systems" within the agency is also of paramount importance in creating an atmosphere that prohibits the spread of cynicism. Employees must respect and believe in each system's design, particularly the promotional system. The opportunity to compete in a promotional system that is viewed as fair, impartial, and identifies the best-qualified applicants is a prerequisite to avoiding deep frustrations which can result in prejudices, disenchantment, and a predisposition toward cynicism.

Police cynicism is not viewed as an evil, diabolical corruption of police personalities and organizations when we understand what it is, its causes, and its treatment. Instead, it becomes a human reacton to stress that can invade our attitude just as cancer can invade our body. However, action can be taken to safeguard ourselves and our organizations.

Recognizing and understanding cynicism is the first line of defense against its continual growth. Establishing an organizational philosophy that advocates close ties to the community can minimize the opportunity for cynicism to develop. When detected in the early stages, corrective measures can be applied to insure that the attitude of the organization is in concert with delivering quality public service. Measures can be taken to insure the health, safety, and physical well-being of our personnel. Can we afford to do any less for their important mental well-being which affects not only the individual officer but the agency and the community as well? FBI

Crime Problems

THE FIRESETTER A Psychological Profile

(Conclusion)

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Arson-for-Profit

In 1974, Angelo Monachino, the owner of a construction business in Rochester, N.Y., became the subject of heightened interest when it was learned that he had been involved in the arson of a Rochester tire company in December 1972. Monachino's eventual cooperation with local and Federal authorities resulted in a Federal indictment charging a series of eight arsons and insurance frauds committed in the Rochester area between 1970 and 1973 which netted over $480,000 in insurance proceeds. His testimony also assisted Federal prosecutors in indicting six defendants for a number of bombing incidents which occurred on October 12, 1970. In addition, three separate mail fraud indictments were returned, involving owners of the buildings burned by the arson-for-profit enterprise. Monachino also testified before a State grand jury and trial of top-ranking members of the Rochester organized crime syndicate for the murder and conspiracy to murder Vincent "Jimmy" Massarro—one of the torches and strongarm men of the Rochester mob.[85] This case was especially noteworthy since it directly tied organized crime in that area to arson-for-profit conspiracies and identified the membership of the Rochester syndicate.

According to his testimony before the Senate Arson-for-Hire Hearings, Monachino knowingly associated with members of the Rochester mob in hopes of getting contracts on construction projects, stating he was "always on the lookout for new business." After several years of associating with these underworld figures and performing numerous jobs, including arsons, for the Rochester organized crime syndicate, Monachino admitted in his testimony that he "was made a sworn member of La Cosa Nostra in Rochester. . . ." During his association with the mob, he claimed to have personally set 6 fires and either directly or indirectly engaged in setting 11 others. He also employed Massarro in his construction business. According to Monachino, he only received $700 for all of his arson activities. He testified that the mob frequently refused to pay him and the other torches for their work. However, it was inadvisable to complain.

In 1977, Boston police and Massachusetts State troopers broke up an alleged $2 million arson-for-profit conspiracy ring after a 4-month investigation. Thirty-three persons were indicted, including three public adjusters, a retired fire captain, a retired police detective, and a lawyer. Three of the subjects arrested in the case were charged with murder as a result of fatal tenement fires.[86]

U.S. Department of Justice Strike Force attorneys testified before the U.S. Senate Arson-for-Hire Hearings regarding the penetration and prosecution of one of the largest arson-for-profit conspiracies detected in this country.

"On February 24, 1978, a jury in Tampa, Florida, returned guilty verdicts against sixteen defendants in the case of *United States* v. *Joseph J. Carter, et al.* on Federal charges of conspiracy, racketeering and mail fraud. . . . Those verdicts represented the culmination of almost two years of criminal investigation, some three months of trial, and nearly one month of record-setting jury deliberations. The indictment, originally naming twenty-three defendants in thirty-five counts of conspiracy, racketeering and mail fraud, described in detail an 'arson-for-hire' enterprise whereby low-cost and often substandard property would be overinsured and then burned in order to collect unjustifiably high fire insurance proceeds. This criminal 'enterprise' operated successfully for approximately four years in the Tampa area, defrauding major insurance companies of hundreds of thousands of dollars. The indictment alone described twenty-one specific instances of arson. Proof at trial indicated that the enterprise was also responsible for additional fires not listed in the indictment. The list of defendants included several reputable businessmen, four former members of the Tampa Fire Department, a former city building inspector, and a one-time candidate for mayor of Tampa. In addition to the sixteen defendants found guilty by the jury, three others pled guilty prior to trial pursuant to plea agreements and testified as Government witnesses. Four defendants were acquitted." [87]

Those who testified as Government witnesses included the "torch," Willie Noriega, a part-time arsonist, Victor Arrigo (alias Vic Rossi), and an insurance claims adjuster, Joseph Carter.

According to Carter's testimony, he became vulnerable to the Tampa arson enterprise as a result of incurring extensive gambling debts at the dog track. In desperation for money to pay off his gambling losses, Carter agreed to assist the arson enterprise by steering them to companies which would pay off fire claims in a hurry. He found his association to be most lucrative.

Willie Noriega was described as a shrewd, brazen, boastful individual, who had a well-earned reputation for being the best in Tampa. When Federal authorities approached him in hopes that his knowledge of their investigation would convince him to admit his guilt or to cooperate with the Government, he was unmoved and continued his involvement for almost 6 months. When he finally realized that it would be to his advantage to cooperate with the authorities, he became a Government witness.[88]

Dr. Daniel J. Spreke testified at the Carter trial as to Noriega's psychiatric condition. Noriega was clinically depicted as a very cunning and calculating offender.

> "Mr. Noriega's clinical picture was that of the businessman arsonist. That is much different than the impulsive fire setter. This is a person who plans, who does a great deal of planning, who sees people, who sets up things, who gets materials, who knows all about flash points of various materials, who goes into the investment aspects, the money-making aspects of it.[89]

Investigations into arson-for-profit schemes and enterprises have disclosed that profit-motivated arsonists and conspirators include members and affiliates of organized crime, amateur criminals, attorneys, building and repair contractors, building inspectors, businessmen, fire department and law enforcement officials, insurance salesmen and claim adjusters, landlords, homeowners, tenement and apartment dwellers, loan and investment company employees, mortgage company personnel, politicians, and real estate agents and brokers.

Who is the "hired-torch"? Is he characteristically different from other offenders, or for that matter, other arsonists? What induces his firesetting behavior? Does he possess a certain type of personality or criminal mind? What are his incentives for engaging in arson fraud?

In the February 1976, issue of *Psychology Today*, Jack Horn identified the new breed of arsonist:

> "The arsonist is no longer a kid who loves fire engines or a man who likes to see things burn, for sexual thrills. . . . They've been replaced by the cold-eye professional; the torch who, in Jimmy Breslin's memorable phrase, builds vacant lots for money." [90]

According to Michael Smith (alias), a former arsonist-for-hire in Minneapolis, Minn., who testified before the U.S. Senate Arson-for-Hire Hearings, arson can be arranged as easily as making a telephone call.

> "A professional arsonist today is in a seller's market. Many businessmen and speculators who know their way around can call an arsonist to provide instant liquidity of their property the way the average person telephones a reservation to a restaurant." [91]

Arson-for-profit appears to involve a calculated act and a rational rather than pathological firesetter. Consequently, it seems "reasonable to classify arson-for-profit differently from other types of firesetters. . . ." [92] However, when attempts are made to categorize this type of arsonist, one immediately discovers that little information of value exists regarding his personality characteristics or his psychological motivation. According to Vreeland and Waller, "At this point we simply do not know a great deal about the psychological aspects of arson-for-profit, and this is an area which needs a great deal more research." [93]

In the past, little attention had been devoted in psychological or psychiatric literature to arson-for-profit. As a result, information available on the etiology of economic arson or the psychodynamics of its participants is scarce. Simply because arson-for-profit it may be perceived as a rationally motivated crime is hardly reason to ignore it or to give it superficial notice. Many predatory offenses, rationally designed and having far less impact on our society than arson, have been afforded considerably more analytical attention by behavioral scientists than arson-for-profit.

"Arson-for-profit appears to involve a calculated act and a rational rather than pathological firesetter."

The high rewards (financial profits) and the low risks of detection and prosecution appear to encourage complicity and serve as psychological incentives for arson-for-profit. This expectation of easy monetary gain, coupled with the low risk of apprehension, have allegedly enticed housewives, businessmen, and organized crime members to enter the arson market. It has even been speculated that "for certain types of entrepreneurs arson may be treated as a part of normal business activities, with no greater perceived risks associated with it than with many other business activities." [94]

However money, per se, does not really differentiate those who engage in arson-for-profit from those who do not. It may be that those who participate in or are attracted to such activities are more psychodynamically inclined than those who are not drawn to it.

Consequently, the psychological aspects of arson-for-profit need to be explored in greater detail. Knowing the psychological characteristics of the hired torch and his conspirators will aid the investigator in focusing and narrowing his investigation, in designing targeting approaches, in selecting interviewing strategies, and in developing informants for use against such enterprises.

What is needed to effect a targeting program of this nature, however, is a profiling strategy based on a data collection protocol designed to acquire and analyze relevant psychological, sociological, and demographic characteristics of known "torches" and conspirators engaged in arson-for-profit. Profiles of the various components of the arson enterprise could then be applied by arson strike forces, organized crime strike forces, and police-fire arson teams in selectively targeting particular individuals. Vulnerable components of these conspiracies could then be identified and targeted in a selective and effective manner.

A Projected Profile of the Professional Hired Torch

Some psychologists have supported the belief that some arsonists are antisocial or psychopathic personalities; however, others disagree. Wolford, for instance, found no evidence of the psychopathic personality in his study of the incarcerated arsonist. [95] Bernard Levin, on the other hand, has characterized most arsonists "as psychopaths, or having psychopathic personalities." [96] Critical study of the hired torch has not been pursued up to this time primarily because he has been viewed as a rational and nonpathological firesetter. Consequently, his personality remains a matter of great speculation.

A Projected Psychological Profile of the Professional Hired Torch

Age: The age may vary from late twenties to mid-late sixties. However, his age will generally concentrate between early thirties to midfifties. The psychopath may begin to "burn out" between 45 and 50 years of age.

Sex: Male.

Race: Typically, the professional hired torch is caucasian. This will vary, of course, with the area of the country and location of the arson activity.

Intelligence: Average to above-average intelligence (often very cunning and street-wise).

Personality style: Psychopathic (antisocial) style of personality, with such common characteristics as egocentricity, manipulative and exploitative behavior, deceitfulness, pathological sense of confidence, impulsivity, lack of anxiety, remorse and guilt, propensity for high-risk living, schemer and con man.

Marital status: Not uncommon to be single, separated, or divorced.

Marital stability: Often unstable due to his personality and impulsive lifestyle.

Lifestyle: Somewhat impulsive and erratic; often characterized by high-risk living and excitement-seeking; possible nomadiac; prone to be nocturnal.

Socioeconomic level: Often middle class, but may be prone to be heavily in debt or over-extended financially.

Use of alcohol: Common (not uncommon to find excessive drinking, but not during his torching activity; frequently a heavy social drinker).

Occupation/Employment: May be employed in a variety of capacities from professional businessman to unskilled laborer; however, frequently employed by others. If he owns or operates a business, it will be frequently financially marginal.

Work habits: Irregular and marginal.

Prior criminal history: Although he may not have an arrest history he may have been suspect in a variety of crimes ranging from fraud to homicide. He may have an arrest history for such offenses, but without accompanying criminal convictions.

He may have one or two criminal convictions, though suspect in numerous other criminal activities.

He may have an extensive criminal record, with convictions for fraud, assault, and even murder.

Firesetting motivation: Rationally motivated by economic incentives.

Arson planning: Premeditated and often carefully planned to avoid detection.

Solitary or group firesetting: If he is an affiliate or member of a loosely knit or structured criminal enterprise, he may work with one or more other arsonists. If he is an independent, he will most often function as a solitary arsonist.

Behavior prior to firesetting: Often prepares the facility for burning a day or so prior to firesetting in order to insure that it burns as intended.

Behavior at firesetting: As little time as possible is spent in the structure at the time of firesetting. The fire is usually timed in order to provide for his adequate departure prior to the incendiarism.

Behavior after firesetting: Commonly departs the fire scene immediately and prior to the arrival of the fire service. Often returns home, to a bar, or to other planned activities to establish an alibi.

Although there is no concrete clinical proof supporting the contention that the professional arsonist is psychopathic in style, there is reason to suspect that many of them are antisocial or have at least adopted the characteristics more typically associated with that personality type. This postulate is based on their behavioral pattern and choice of a criminal lifestyle.

According to the American Psychiatric Association's (APA) *Diagnostic and Statistical Manual—Mental Disorders* (DSM) III, only persons 18 and over are diagnosed as antisocial (psychopathic) if:

1) There were at least two instances of deviant behavior, such as theft, vandalism, or unusually aggressive behavior, before age 15;

2) There have been at least three behavior problems, such as financial irresponsibility, illegal occupation, and poor work history, since age 15 and no period longer than 5 years without such a problem;

3) The antisocial behavior is not a symptom of another disorder.[97]

Characteristically, the psychopath knows right from wrong, is in touch with reality, and does not suffer from psychotic delusions or hallucinations. Therefore, he does not fall, by definition, within the purview of legal insanity. The most dangerous psychopaths, according to James C. Coleman, et al., are:

> ". . . those who are not only intelligent and completely unscrupulous, but also show sufficient self-control and purposefulness of behavior. . . ."[98]

William and Joan McCord have described the psychopath as "an asocial, aggressive, highly impulsive person, who feels little or no guilt. . . ."[99]

Although impulsive, he is also often a very cunning, methodical, and premeditated offender capable of any form of criminal behavior. It is also possible for this type of personality to remain undetected in society and free from criminality. He may, however, stay on the periphery of unlawful conduct, e.g., shyster lawyers, unscrupulous businessmen, and unethical politicians. The psychopath's life is frequently characterized as risk-taking, exploitative, manipulative, irresponsible, and unethical. If engaged in criminality, he is often found to be involved in fraudulent schemes, as well as various forms of aggressive and assaultive behavior. Some of the most brutal homicides are perpetuated by psychopaths. Due to their sadistic nature, they receive great satisfaction from seeing others suffer. It gives them a sense of power and dominance.

The psychopath is known to manipulate or to toy with the police during their investigations. He may even offer assistance or provide evidence to the authorities in an effort to mislead them. He is not easily intimidated. Consequently, approaching a psychopathic suspect for the purpose of discouraging him, by telling him that he is a target of an investigation, will often only encourage his continuation. His egocentricity and pathological self-confidence drive him to prove his superiority.

Arson-for-profit would appear attractive to a psychopath. The risks of being caught are low and the financial incentives are often extremely inviting. In addition, it would provide him with a suitable and profitable outlet for his sadistic, excitement-seeking nature. He would receive tremendous pleasure and gloat in being able to frustrate the authorities in their efforts to solve his crimes.

This type of offender is not easily deterred. The threat of punishment often has little or no impact on the psychopath's behavior. He is most vulnerable, however, when it becomes obvious to him that he has been trapped and there is no way out. At that point, he may bargain or offer a deal to save himself or to at least minimize his punishment. He does not like to be the scapecoat. When he sees this happening, he often offers to become a Government witness or informant. It should be recognized, however, that whatever he does or offers is to his own advantage. If he foresees no personal benefit or gain from his cooperation, chances are that he will not cooperate. Relying on this type of personality for assistance is risky, even when it appears that he is amenable.

". . . a comprehensive analysis of the arson enterprise will most likely divulge multiprofiles rather than a single, typical one."

In light of this, it is advantageous for arson and law enforcement authorities to know when they are investigating or targeting a psychopathic suspect.

Their selection of investigative strategies should be based on his style of personality. For instance, the premature interview of this type of suspect could prove to be damaging, if not fatal, to his future prosecution. He is not likely to offer a confession nor is he prone to inform on his confederates, unless he sees his own prosecution as inevitable. Furthermore, if he detects weakness in the ongoing investigation, he may become stimulated to continue flaunting his incendiary talents before the authorities and then boast of their inadequacy to stop him. If he were previously unaware of being investigatively targeted, his premature approach by authorities could drive him into more discreet activity, thus further complicating the investigation.

The most vulnerable aspect of the psychopath is his egocentricity or love of self. Self-gratification and self-preservation are central to his impulsive behavior. He is prone to be manipulative and exhibitionistic (to demonstrate his superiority), but over-confidence can lead to his downfall.

Although he is sensitive to manipulation by others, it is possible to manipulate subtly this type of offender. When he perceives a challenge by the authorities, he often instinctively reacts. He must prove his dominance. However, psychopaths characteristically react to frustration with fury. Thus, they may become extremely dangerous when cornered or frustrated.

There is insufficient data on which to base a conclusive profile of the professional hired torch. Glimpses of his personality, however, have been captured in those who have been identified as professional '"torches," and the psychopathic style of behavior appears to be manifested in many of them to varying degrees.

The Arson Conspirators

As noted previously, conspirators in arson-for-profit schemes and enterprises have been identified most often by their criminal associations and occupational and professional titles. However, one's title or occupation is not sufficient, in and of itself, to characterize psychologically an individual. Persons with varying personalities, behavioral styles, and backgrounds may be employed in similar jobs or careers. Although the professional participant (the banker, insurance adjuster, or lawyer) plays a vital role in the successful operation of arson-for-profit enterprises, his occupation does not descriptively illustrate his personality or explain why he has chosen to become involved to the exclusion of others. People are unique and individualistic.

Some of the known arson co-conspirators have had long criminal histories; others, only sporadic conflict with the law. Many have lived exemplary lives up to a point. They have been civic-minded and forthright—even dedicated to the pursuit of honesty. Some have even stood as bastions against criminality and lawlessness. What then caused these persons to turn to dishonesty and criminal behavior? Were they latent criminals? Is their involvement fortuitous? Do they share common personality traits or patterns?

These questions cannot be answered with any certainty, since little is really understood about any of the conspirators. Consequently, attempting to assess their psyches would be, at best, speculative and tenuous at this time without in-depth study and supporting clinical evidence. While behavioral scientists have theorized on the reasons for criminal behavior, there appears to be no single causative factor for crime. If anything, it is eclectic.

Although a significant portion of arson appears to be attributed to the severely mentally and emotionally maladjusted, arson-for-profit seems to be the product of a rational offender who has selectively chosen incendiarism for financial considerations rather than for the relief of tension or for vengeance, though neither of these elements can be totally eliminated from any firesetting behavior.

Arson-for-profit is an attractive offense to the professional criminal. Smalltime hoodlums and fly-by-night arsonists have possibly seized upon incendiarism as an opportunity to establish a reputation and earn easy money. In either case, their involvement is symptomatic of their basic behavioral and psychological predisposition to crime. Chances are that if they were not "burning" for money, they would be engaged in other forms of criminality. In fact, it is not uncommon to find these persons engaged simultaneously in arson as well as in other forms of criminal behavior. Crime, then, is a way of life and a style of persistent behavior for these offenders.

It is possible that many conspirators have seized upon arson as an opportunistic method for expeditiously and safely extricating themselves from financial difficulties. If their lifestyles were assessed, a common history of risk-taking, impulsiveness, poor judgment, and pretentious living would probably be found. It is likely that they have invested unwisely, squandered their savings, and over-extended their indebtedness. They have sought to make fast money and to acquire social recognition and prestige through the acquisition of wealth. Instead, their lives have been marked by continuous failure and frustration. Out of desperation they seek relief from this burden so they can start anew. However, their lifestyles will not change and they will continue to strive for the unattainable. Their desire for more is insatiable.

There are certain businessmen and entrepreneurs who appear to have accepted arson as a legitimate and profitable alternative to bankruptcy and excessive overhead. Some have even adopted it as a common business practice or as an investment enterprise. Although often void of a registry of criminality, these unethical businessmen and investors have often been engaged in fraudulent activities or on the fringes of criminality much of their business careers. Some of these financiers have even accepted fiduciary interest in organized or loosely organized crime activities. Their behavioral style closely correlates with that of the psychopath—impulsive, egocentric, and ruthless. Therefore, their involvement in arson is not out of character; it is actually compatible with their basic psychological pattern.

There are also those engaged in arson who are socioeconomically disadvantaged. Their lives are characterized by the inner-city ghetto, poverty, unemployment, governmental subsistence, and feelings of isolation and exploitation. Here, arson is used as a method of social and racial protest, as well as a technique to elevate fraudulently their living standards and to obtain better housing. Such behavior often demonstrates cultural conflict as well as criminality.

The anatomy of an arson scheme or enterprise depicts a structural network and pattern of interrelated components. Whatever the configuration of the network, each participant has a specific role and is involved for a particular self-serving purpose. The players are psychologically prepared to engage in such behavior; all that is required to unify these components is the catalyst—opportunity. Therefore, economic arson is often a fortuitous act as well as a continuing enterprise. Arson-for-profit frequently feeds off crises. Many of the co-conspirators are drawn to this form of criminality because they perceive it as offering a simplistic and undetectable solution to their immediate distress or needs.

A reliable profile cannot be presently constructed on a "typical" arson-for-profit conspirator. The variability of backgrounds and personalities of the participants may even preclude the development of a stereotypic profile. In fact, a comprehensive analysis of the arson enterprise will most likely divulge multiprofiles rather than a single, typical one. What is needed is a comprehensively designed analytical investigation into the individual and interpersonal dynamics of such group behavior.

An Arson Protocol

Any successful criminal prosecution is predicated on a well-systematized and comprehensively formulated investigative process. The more complex the scheme though, the more necessary it is for the investigation to be strategically planned and executed.

One of the most critical support components in any arson-for-profit investigation is the intelligence gathering and analysis function. If appropriately designed and employed, this process can provide invaluable insight into the operation of the criminal enterprise and furnish the data necessary to design specific targeting strategies. On the other hand, a hastily built investigative approach may prove to be fatal to the successful penetration and destruction of such a scheme.

A technique which holds promise for effectively targeting the participants in arson-for-profit is the psychological profile. If appropriately constructed, the profile can possibly serve as an analytical tool in identifying and assessing the most vulnerable elements in the conspiracy. The profile, however, must be based on a comprehensive and standardized data collection format. Therefore, an arson protocol appears to be a necessary and vital prerequisite to implementing a psychological profiling program in arson-for-profit cases.

The term "protocol," as defined in psychiatric and psychological literature, means:

> "The individual case record; the 'raw material' of a study or experiment before it has been included into the conclusions or overall results of the study. In clinical psychiatry, the protocol commonly refers to the complete case history and workup, in contrast to the case summary or final conclusions about the individual case." [100]

Basically, a protocol is a data collection instrument designed to record raw material of a given study—subject or group. The instrument would facilitate and standardize the collection and analysis of relevant criminological, psychological, and demographic information on known or suspected arsonists and arson conspirators. It would aid in the selective targeting of certain members of a group by furnishing data necessary to pinpoint those most likely to be vulnerable to intensive investigation or susceptible to Government persuasion to act as informants or to become witnesses for the Government.

"One of the most critical support components in any arson-for-profit investigation is the intelligence gathering and analysis function."

The protocol could also serve as a research instrument for interviewing and assessing subjects who have been convicted on arson-related violations. Profiles gleaned from such studies could serve three purposes: (1) To provide applied and comprehensive profiles of known arsonists and arson conspirators; (2) to aid in the training of investigative personnel who are assigned to arson task forces and organized crime strike forces; and (3) to support future investigative efforts in these areas.

An Overview

Arson and arson-for-profit is one of the fastest growing criminal activities in this country today. By explaining the many psychodynamics related to firesetting and demonstrating the applicability of psychological profiling to arson, it is possible to illustrate the cluster characteristics and firesetting behaviors associated with particular arsonists.

However, it is apparent that all firesetters are not alike and that little is really known about their motivation or firesetting behaviors. Because of this, there is an urgent need for a comprehensive and detailed study of known firesetters of all types, to include the various pathological firesetters, as well as those who engage in arson-for-profit conspiracies. **FBI**

Footnotes

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Avoiding Jargon in Police Reports

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The importance of well-written police reports is an established fact that most will readily accept. Reports are useful records which may serve as evidence in court, investigative tools, guides for rehabilitation, or sources of statistics. In addition, they are often the only tangible evidence of an officer's efforts in the field. The more clearly written the report is, the better it can serve those purposes.

However, while many officers recognize the importance of a report in police work, they often hamper its ability to communicate by using jargon or gobbledygook. As static garbles an officer's radio transmission, jargon creates a form of static in written reports that confuses readers, because it is so often unintelligible. Yet, while jargon can cripple the effectiveness of police work, texts on police communications seldom treat it in detail. In fact, a random sampling of six texts revealed only one discussion of jargon.[1] Clearly, though, jargon is a problem worth studying.

What is jargon? In its narrowest meaning, jargon is the specialized vocabulary or idioms of a given profession. However, in the context of this article, the much broader definition, given in Kakonis and Hanzek, is "unintelligible or confused words and constructions." [2] More specifically, jargon (often called gobbledygook) uses language which is too pompous and constructions which are too wordy and pretentious for a given communication. This broad definition of jargon also encompasses the specialized vocabulary (e.g., police slang and the 10-system) which, while appropriate for police work, is not understood by those who deal with the reports, yet are not directly involved.

In short, jargon is over-writing. The person who writes police reports in jargon forgets or does not realize that different writing situations call for different writing styles. The utilitarian nature of police reports dictates a simple, clear style. Writers who become eloquent in police reports not only waste their own time but also that of their readers, since they must decode the complex prose that results.

The following jargon-ridden paragraph from the narrative portion of a police report will clarify the term (some references in the text were detailed on the face sheet, of course):

> Officer Roe approached the front entrance of the above-mentioned residence on foot. The above-referenced officer then made a visual surveillance of the interior of the domicile through a glassed opening in the door. As he did so, the officer made the observation that the B & E suspect was apparently attempting to effect an escape employing a window overlooking the residence's side yard. It was noted that the suspect carried no visible weapon. Officer Roe then effected his entry by pushing open said door and by stepping into the domicile. As Officer Roe did so, he gave the verbal command to the suspect to halt his progress through the window. . . . After arresting the suspect, Officer Roe then gave a verbal admonishment to the suspect to the effect that he was under no obligation to aid the officer in his further investigation.

As in this example, the writer of jargon takes a simple message and garbles it. Here, the writer relates the officer's approach to, observation of, and entry into the scene of the alleged crime, followed by his apprehension and admonishment of the suspect. In the report, however, the writer took at least twice as many words as was necessary to describe the events.

The question arises then as to what motivates a police officer (or any professional for that matter) to write jargon. While the answer is not totally clear, a few causes seem frequent enough to merit attention. Some officers lapse into jargon because they believe that they are expected to—it is a style of writing they see others use and thus must imitate. Another common cause is the feeling some have that simple expression in writing will be equated by the reader with simplicity of mind. In fact, some writers of jargon see a need to impress their readers rather than express their ideas.[3]

"Effective writing is that which expresses a message rather than impresses the reader."

Of course, the writer who seeks to impress is usually one who focuses on the quality of his or her expression. On the other hand, the reader who has to unknot convoluted prose is more likely to be irritated than impressed by jargon. An officer's competence should show through in the events being narrated in a report; they should speak for themselves without being dressed in unnecessarily vague or pompous language.

Fortunately, the elimination of jargon is relatively simple. The central rule is: Effective writing is that which expresses a message rather than impresses the reader. Several more specific rules show how to achieve this objective.

Probably the most important rule to follow in eliminating jargon in police reports is for the writer to avoid so-called "deadly verbs" or "camouflaged verbs."[4] In this very common pattern, instead of expressing the action of a sentence with a single, clear action word (the verb), the jargon writer will turn the verb into a noun. Now, in order to express the action, the writer needs another verb. In the jargon example,

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several examples of this pattern are evident. Instead of saying "the officer made the observation that the B & E suspect was apparently attempting to effect an escape," the writer could have written, "Officer Roe observed the suspect apparently trying to escape." In the original, the author changes the verbs "observed" and "escape" to the nouns "observation" and "escape." Then, in order to activate these nouns, new verbs "made" and "effect" were used.

A number of so-called deadly verbs can be used in the pattern just illustrated, including be, give, have, hold, make, put, and take.[5] Police officers frequently add another—effect, as in "Officer Roe effected the arrest of the suspect." Deadly verbs, in addition to expressing action indirectly, require extra words and pad writing unnecessarily. Avoiding them improves the verbal economy of a report.

Another rule for avoiding jargon is also motivated by economy. A good writer should be concise and use as few words as necessary to say what he or she wants. Thus, rather than saying that a board used as a murder weapon is "thirty-six inches in length, four inches in width, and one and one half inches in thickness," an economical and direct writer could describe it as "36 in. long, 4 in. wide, and 1.5 in. thick." The rewrite communicates the same idea more directly without sacrificing clarity. Similarly, instead of saying that "the suspect vehicle turned in an easterly direction," one could say that "the suspect turned east" (assuming, of course, that the narrative has earlier mentioned the suspect was in a car).

A third rule is to use clear, definite subjects in sentences. In the jargon example, the writer unnecessarily complicates the narrative with the use of "the above-mentioned address" and "the above-referenced officer." The reader seeing these has to search for the specific details in the narrative or on the face sheet, with no sure guarantee of accuracy. The specific address of the victim and the last name of the officer would take up less space while communicating more clearly than the original.

". . . the good report writer will look for the most precise words to describe a situation."

In addition to following the above rules, the good report writer will look for the most precise words to describe a situation. Rather than describing a suspect as traveling at "a very high rate of speed," a more careful writer will specify the rate. Similarly, instead of describing an apprehended suspect as "manifesting threatening behavior upon arrest," the precise writer would say what the suspect said or how the suspect behaved to insure the most effective communication.

Of course, preciseness does not merely lead to clear direct writing; it might also guarantee that observations recorded in a report could later be used with confidence in court. The busy officer who must sort out details of several similar arrests will appreciate specifics when called as a witness in court.

A final rule for avoiding jargon is probably one of the most important. Officers should write naturally, using constructions that they normally use in serious conversation. In doing so, a writer should avoid the learned language and constructions of formal report writing, as well as the informal language of speech. Writers who reach above their vocabulary too often misuse words with occasionally humorous, but too often pathetic, results. The officer who "appraises" the suspect of his rights, when "apprise" is meant, would do better simply to say "read" or "told." The officer who is "advised" of an armed robbery in progress should more accurately be "informed." Glossaries in police report writing texts abound with similarly confused word pairs which could be avoided by substituting simpler words.[6] For example, the writer who used "allude" when "elude" is meant could use "escape" with more confidence. Similarly, the writer who confuses "noted" with "notorious" would probably write less prejudicial prose if he or she said "famous," all the while communicating more clearly. In addition, saying that a suspect said "yes" is far more direct and more accurate than saying that "the suspect indicated her ascent" (confusing "ascent" with "assent").

One rather formal word which is frequently used (but not, strictly speaking, misused) in police reports belongs better in the contract and legal jargon from which it is drawn. This word, "said," is substituted for "the" or "this" by many writers in such constructions as "Defendant Doe struck said victim. . . ." Although the word does lend a legal tone to a sentence, the writer would be better off remembering that he or she is writing a police report, not a contract. Other legal terms which could be avoided include "party" instead of "person" and "subject" when it is used in place of the demonstrative pronoun "this," as in "the subject automobile" for "this automobile." [7]

Following the suggestion made earlier, writers who use a writing style similar to the verbal style used in serious conversation are less likely to overreach themselves in sentence structure as well as in vocabulary.

Instead of writing "it was noted that . . . ," the direct writer would write "Officer Roe saw. . . ." Frequently, the pompous, seemingly learned sentence patterns will overwhelm the writer. These convoluted patterns often lack a subject or a verb because writers get lost in writing the sentence. Therefore, these patterns are best avoided.

The elimination of jargon, then, is relatively simple—the writer need do little more than be natural. The law enforcement officer who remembers the utilitarian nature of police reports and pitches the message to the practical needs of the people who read them is far more likely to impress the reader than is the writer of jargon who is barely understood. In fact, the writer of jargon who recasts prose in order to impress (and, in doing so, smothers what little expression there might be) probably makes the worst impression in the end. **FBI**

Footnotes

[1] Tom E. Kakonis and Donald K. Hanzek, *A Practical Guide to Police Report Writing* (New York: McGraw-Hill Book Co., 1978), pp. 184–185. Allen Z. Gammage, in his *Basic Police Report Writing* (Springfield, Ill.: Charles C. Thomas, 1974), pp. 34–40, does give some good rules on the diction of police reports, although he doesn't address jargon *per se*.

[2] Kakonis and Hanzek, pp. 184–185.

[3] See Deborah C. Andrews and Margaret D. Bickle, *Technical Writing, Principles and Forms* (New York: MacMillan Publishing Co., 1978), pp. 67–69. They concur on this point in an illuminating discussion.

[4] See Herta A. Murphy and Charles E. Peck, *Effective Business Communications*, 2d ed. (New York: McGraw-Hill Book Co., 1976), p. 83, and Raymond V. Lesikar, *Basic Business Communication* (New York: Irwin, 1979), pp. 16–17.

[5] Murphy and Peck, pp. 83–84.

[6] See especially Robert C. Levie and Lou E. Ballard's *Writing Effective Reports of Police Investigations* (Boston, Mass.: Holbrook Press, 1978), pp. 379–401. They give a useful detailed list of words frequently confused in police reports for one reason or another. Kakonis and Hanzek (pp.164–200) give a shorter list interspersed with grammar and style suggestions.

[7] Gammage, pp. 37–38, provides these latter examples. See his discussion on legal terms for less frequently used expressions.

Guidelines for submitting articles to the FBI Law Enforcement Bulletin

The following guidelines have been established to assist police personnel and persons in disciplines related to law enforcement who are interested in submitting articles to the FBI Law Enforcement Bulletin for publication consideration. Adherence to these guidelines will facilitate the prompt administration of all manuscripts and materials forwarded to the Bulletin.

Author—The exact wording of the desired byline and the current business mailing address of the author, or authors, should accompany manuscripts submitted to the Bulletin.

Editing—The Bulletin reserves the right to edit all manuscripts.

Format and Length—Submitted manuscripts should be typewritten, double-spaced, in triplicate. In general, they should be approximately 3,000 words in length, but the adequate treatment of subject matter, not length, should remain the primary and overriding consideration.

Photographs and Graphics—A photograph of the author, and when applicable, his police chief, should accompany manuscripts. If possible, other suitable photos, illustrations, or charts supportive of the text should be furnished. Black and white glossy prints reproduce best. In addition, special effort should be made to obtain a quality black and white glossy photograph, vertical format, for possible use as a cover photo.

Publication—All manuscripts submitted to the Bulletin are reviewed and evaluated based on individual merit. Relevancy, innovativeness, timeliness, and prospective overall appeal to the readership are considered. Favorable consideration is not usually given an article which has been published previously or which could be published in another magazine contemporaneously with its appearance in the Bulletin. No promises of publication or commitments regarding publication dates can be made.

Submission—All manuscripts should be forwarded to: Editor, FBI Law Enforcement Bulletin, Federal Bureau of Investigation, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535. Any inquiries or suggestions regarding the FBI Law Enforcement Bulletin should likewise be directed to the above address.

Police Use of Deadly Force

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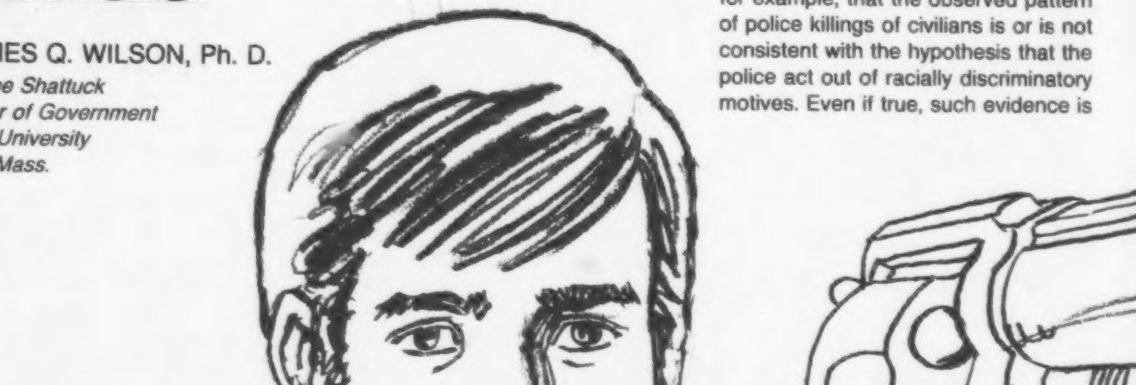
No aspect of policing elicits more passionate concern or more divided opinions than the use of deadly force. Many community groups and minority organizations believe police killings of civilians are excessive and often unjustifiable; many police agencies are apprehensive and angry about unprovoked fatal assaults on patrol officers.

The opinions of those persons most deeply concerned are not likely to be changed by a scholarly discussion of the available evidence. This is not simply the result of the emotions involved, though that may be part of the reason. More important, scholarly observations and popular concerns emphasize very different aspects of the situation, and thus, each side is likely to feel that the other has nothing to contribute. A scholar is interested in general patterns, broad trends, and statistical evidence; a citizen or a police officer is, understandably, more interested in particular cases, immediate circumstances, and unique or unusual events. Statistical and historical evidence might be assembled to show, for example, that the observed pattern of police killings of civilians is or is not consistent with the hypothesis that the police act out of racially discriminatory motives. Even if true, such evidence is



not likely to satisfy anybody attempting to explain what happened, and why, when two officers (one black, one white) shot a 39-year-old black woman who was carrying a kitchen knife or when a black police officer working alone is killed by a white man. Citizens and police officers are preoccupied with incidents and argue about whether the behavior of the persons participating in those incidents can be justified, and if not, what should be done about it.

Nonetheless, a review of what we know in general about police use of deadly force may have some limited value because, though it will not settle the Eulia Love or the Cecil Sledge cases, it may permit us to test our general preconceptions—preconceptions that often shape the way we interpret particular incidents. Moreover, the evidence may permit us to make more reasonable guesses as to whether policies, or changes in policies, are likely to make a difference in how the police behave.

Number of Police Killings

Traditionally, we have looked to the National Center for Health Statistics (NCHS), a Federal agency that tabulates death certificates sent in by State authorities, for a count of the number of civilians killed by the police. In 1974, that number was 375. We now know, thanks to the research of Lawrence W. Sherman and Robert H. Langworthy, that these figures substantially undercount the true number of police killings. For a variety of reasons, death certificates are likely to be unreliable with respect to the circumstances surrounding a homicide (for example, the cause of death, such as a gunshot wound, may be indicated, but the origin of the gunshot may not). Sherman and Langworthy have estimated, using police department records of a number of jurisdictions, that the actual number of civilians killed by the police nationally may be as much as 50 percent higher than that shown in NCHS figures. This would mean that between 3 and 4 percent of all homicides are police-caused. Moreover, cities differ in the extent to which national figures accurately portray the number of police killings; thus, national figures should not be used to compare one city to another. For example, police and coroner reports on police killings are in rather close agreement in Boston and Cleveland, but very different in Houston and Memphis.[1] On the other hand, there is no reason, so far as we now know, to question national figures on police officers killed by civilians. During most of the 1970's, these have numbered between 100 and 130 per year.

Owing to these data problems, it would be a mistake to try to calculate national trends in police killings of civilians or in the ratio of civilians killed by the police to police officers killed by civilians. Anyone interested in knowing whether the police are more or less likely to kill a civilian is best advised to confine his research to one or a few cities, using a variety of data from local sources.

Characteristics of Civilians Killed by the Police

If we limit our attention to data gathered in individual cities by independent researchers, we can draw some tentative conclusions about the characteristics of persons killed by the police and the circumstances surrounding police use of deadly force. The best known study is probably that done by Catherine H. Milton and her colleagues at the Police Foundation.[2] Police department records were examined in seven cities—Birmingham, Detroit, Indianapolis, Kansas City, Oakland, Portland (Oreg.), and Washington, D.C.—during the period 1973–1974. There were 320 instances of city police shootings that produced a civilian injury or fatality during the 2-year period. By reading departmental accounts of these incidents, the researchers concluded:

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—Between one-quarter and one-third of the shootings resulted in a fatality;

—The typical civilian victim was a young (under 30) black male;

—In about half the cases, the shooting victim was armed;

—About one-sixth of the shootings involved off-duty officers;

—The most common circumstance surrounding a shooting (accounting for nearly half the cases) was a crime in progress; the next most common (accounting for about a third of the cases) was a disturbance call; and

—During the period, 19 police officers were killed by civilians, and 111 civilians were killed by the police—a ratio of about 1 to 6.

The fact that blacks (and other minorities) are so frequently the victims of police shootings has, understandably, given rise to the most intense passions in the controversy over police use of deadly force. Some critics of the police charge that this finding proves that the police are engaged in a genocidal war against minorities; some defenders of the police reply that this finding merely reflects the greater likelihood of blacks committing crimes, especially violent ones, and threatening police officers. No single study can hope to settle the factual question, much less to calm the passions. Worse, these very passions lead many individuals and groups to produce inadequate or even self-serving studies that can be used to buttress one side or another of the argument.

In my opinion, the best investigation we now have of the significance of race in police shootings is that done by Dr. James J. Fyfe of the School of Justice, American University, Washington, D.C., and formerly of the New York City Police Department. Using data on nearly 3,000 police shooting incidents in New York City during the period 1971–1975, he attempted to assess the relationship between race and shooting in two ways. First, he examined the correlation between police shootings and levels of violent crime within the 20 police commands in New York City. He found that there was a very high correlation (+.78) between the total homicide rate of an area and the rate of police shootings, and that this correlation was even higher (+.89) when the data were restricted to shootings by on-duty officers.[3] This finding is consistent with the correlation found by Kania and Mackey between police violence and community characteristics more generally.[4]

Such findings are open, of course, to the obvious objection that the police may still be acting out of racially discriminatory motives, even in areas characterized by high rates of violent crime. Perhaps white officers assigned to high-crime black areas feel inclined to "shoot first and ask questions later," using the high prevailing rates of violent crime more as a pretext than as a reasonable justification for resorting to deadly force.

To deal with this possibility, Fyfe opened a second line of inquiry. Most studies of police shootings examine the racial identity of the victim but not of the officer. Fyfe was able to do both in New York City. Even though the race of the officer was not indicated in about one-third of the reports of police shootings, Fyfe was able to obtain this information by personal inquiries. He found that black officers were almost twice as likely to engage in shootings (208 per 1,000 officers) than were white officers (114 per 1,000 officers). Hispanic officers were about as likely to be involved in shooting incidents as white ones (118 per 1,000 officers).[5]

When Fyfe combined the race of the officer with the race of the victim, the difference persisted. Black officers were about twice as likely to kill a black civilian than were white officers; hispanic officers were more than twice as likely to kill a hispanic civilian than were white officers.

One should not conclude from this, however, that black and hispanic officers are trigger-happy. Much depends on the area of the city to which the officer is assigned. Fyfe tabulated police shootings by duty assignment, paying special attention to officers assigned to precincts having the highest hazard ratings. These are called "A" precincts and are generally regarded as the least desirable duty assignments. Blacks are much more likely to draw such duty assignments than whites, partly as a result of their relative lack of seniority (many blacks have only recently entered the force) and partly because of departmental efforts to place black officers in black precincts (which are disproportionately of the "A" variety). The rate at which white, black, and hispanic officers shoot at civilians within "A" precincts is virtually identical (roughly, 200 per 1,000 officers).[6]

In New York City, the evidence does not support the view that the disproportionately large number of black victims of police shootings is the result of a systematic pattern of white hostility to blacks. If the genocide theory is to be accepted, one has to believe that black officers are part of the conspiracy, an assumption that seems rather unlikely. Of course, the situation may be different in other cities.

The Effects of Policy

Even if white and black officers given comparable duty assignments are about equally likely to shoot at civilians, we still must ask whether the absolute level of police shootings is excessively high. One way to answer this question is to ask what proportion of police shootings are deemed unjustified. The report by Milton and her colleagues reviewed several hundred shooting incidents in seven cities and found that "the substantial majority appeared to be clearly justified under the applicable state laws and department policies." [7]

This finding, however, asks the question of whether the State laws and departmental policies provide a reasonable standard. Moreover, as Milton and her coauthors point out, many shootings found justified by departmental reviews under existing policies had questionable aspects. For example, the officer may have thought he was acting in self-defense, but used force out of proportion to any threat he faced, or a fleeing suspect was shot without the officer having probable cause to believe that the suspect had committed a felony and could not have otherwise been apprehended.[8]

". . . there is good reason to believe that shooting policies make a difference . . .

Though the justifiability of a given shooting is the key issue from the point of view of both the police and civilians, it is not likely that social scientists will be able to shed much light on the issue given the available data. The evidence with which to make such judgments is ordinarily gathered by departmental review boards and not by independent inquiries, and the standards by which to judge the evidence, however gathered, are matters much in dispute.

However, systematic analysis of the data should permit us to say something about whether differences in departmental policies make a difference in the frequency of police shootings. If cities otherwise similar in their social composition and crime rates differ markedly in the incidence of police shootings, or if the rate of such shootings in a single city changes dramatically in a short period of time, then we can conclude that at some times and in some places, the wrong shooting policy is in effect. If city A experiences a dramatic decrease in shootings over the course of a 2-year period as the result of a change in policy, then either there were too many shootings in the earlier time period or there are too few in the later one—the level of police shooting cannot be "just right" at both times. If cities A and B, otherwise similar in composition, have very different rates of police shootings, then either one city has too many or the other has too few. In short, large and policy-linked differences in shooting rates constitute prima facie evidence that some policies are wrong. Of course, establishing this finding presupposes our ability to control all other nonpolicy differences between cities or in one city over a period of time. Strictly speaking, this is probably impossible, but we can approximate it sufficiently so that the burden of justifying the consequences of one policy or another must fall on those who defend the policy.

The study by Milton, et al., finds large differences in shooting rates among the seven cities as of 1973–1974, whether calculated as shootings per 100,000 population or per 1,000 officers.[9] These two rates are shown together in table 1.

Washington, D.C., and Oakland had crime rates that were much larger—in the case of Washington, D.C., twice as large—as the crime rates in Birmingham, but had a police shooting rate that was much lower (whether based on the population or on the number of officers). Even though, in general, shooting rates tend to be higher in cities with many blacks, Detroit and Oakland, whose racial composition in 1970 was roughly the same, had very different shooting rates, and Washington, D.C., with the highest proportion of blacks of any city in the table, had a lower rate of shooting per 1,000 officers than any but one city.

In a study of 50 independent police departments in Los Angeles County during 1970–1971, Gerald F. Uelmen found that there was a strong correlation between the rate of firearms discharges and the restrictiveness of a department's firearms policies—the departments with the least restrictive policies had twice the rate of firearms discharges as those with the most restrictive ones. There was little relationship, on the other hand, between the restrictiveness of the policy and the arrest rates or social composition of the communities.[10]

These comparisons among cities are only suggestive, of course, for the communities may differ in unobserved ways that would justify disparate levels of shooting. For example, cities may differ significantly in the frequency with which an officer confronts an armed and dangerous suspect. It is almost impossible to detect these differences with the statistics now at our disposal. We can, of course, observe the rate at which persons are arrested for violent offenses and calculate the number of police shootings per 1,000 such arrests. When this is done, however, great differences among cities in shooting rates persist. For example, one study found that in San Francisco there were 1.5 police shootings per 1,000 violent crime arrests during 1978, whereas in Houston there were 21.5 shootings per 1,000 violent arrests. But other factors we have no easy way of measuring may explain some of the difference. Citizens in Houston may (indeed, almost certainly do) carry weapons more frequently than citizens in San Francisco. Even more important, felons in Houston may be more willing than those in San Francisco to shoot it out with the police. The "frontier tradition" is stronger in the South than the North, and this may help account for both higher levels of citizens shooting at police, as well as police shooting at citizens. Whether these factors explain all of the differences among cities is purely a matter of conjecture; in my opinion, they probably do not.

More conclusive are studies that examine changes in shooting rates over time within a single city. Milton, et al., note that police shooting rates declined substantially in Detroit (by 25 percent) and Kansas City (by 38 percent) in the period 1973 to 1974, even though the rates of violent crime were increasing.[11] In Washington, D.C., the police shot an average of 37 persons per year between 1970 and 1976, but only an average of 20 persons per year from 1976 to the present.[12]

thus the development and implementation . . . of a reasonable policy ought to be a matter of the highest importance for a police administrator."

The most detailed study of changes in shooting rates within a single city is that of James J. Fyfe. In August 1972, the New York City Police Department issued new shooting guidelines and established new shooting review procedures that were more restrictive than those previously in effect.* Fyfe compared the rate of shootings occurring during the 19 months before the new policy was instituted with the rate during the ensuing 3½ years. Before the new policy went into effect, an average of 18 officers per week discharged their firearms; after the policy went into effect, the weekly average fell to less than 13, a decline of nearly 30 percent.[13] This decline persists after one subtracts from the totals accidental discharges, warning shots, suicide attempts, and the destruction of animals. Further, the decline cannot be explained by a drop in the crime rate. The greatest decline was in shootings involving fleeing felons. There was no corresponding increase in the number of officers shot or stabbed in the line of duty; indeed, there is some evidence that the average number of officers injured per week declined somewhat.[14]

Again, the data only show, at best, that policy makes a difference; it does not and cannot establish which policy is the right one. However, if one can find evidence that a restrictive policy reduces the number of police shootings without producing an increase in the rate of injuries to police, then those who may wish to defend a less restrictive policy must be prepared to show what benefits follow from it.

The Policy Issues

At the time of the Police Foundation survey, there was great variation in the clarity, content, and effectiveness of police department standards governing the use of firearms. Since then, more departments have moved toward developing explicit rules and making them part of their training and command systems. It is hard to say that a consensus is emerging as these rules take shape, but certain guidelines seem widely shared. Most departments prohibit or strongly discourage firing warning shots; many departments discourage and some prohibit firing at moving vehicles, unless the occupants of the vehicle are themselves shooting. All departments recognize the right of an officer to use deadly force in self-defense or in defense of others. Many differ, however, in what standards are to be used in deciding that one is in jeopardy. Is the opponent armed? Have defensive means other than shooting failed? Is the threat to life imminent? Does the officer have reasonable cause to believe that death or serious injury will occur?

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* For discussion of the New York City Police Department's shooting guidelines, see James J. Fyfe, Ph.D., "Deadly Force," FBI Law Enforcement Bulletin, December 1979, p. 7

People disagree even more over the use of deadly force to apprehend a fleeing suspect. The FBI does not allow the use of deadly force under such circumstances. On the other hand, its Agents typically make arrests pursuant to a warrant and not on the basis of having probable cause to believe that a suspect has just committed a felony. Moreover, FBI Agents rarely are involved in disturbance calls or crime-in-progress incidents, and for these reasons, a policy that works well for the Bureau may not be appropriate for urban police forces. If shooting at a fleeing suspect is to be allowed, many questions arise. What constitutes "flight"? What distinctions (if any) should be made between adults and juveniles or between violent and nonviolent crimes? The seven cities studied in the Police Foundation report differed more with respect to the fleeing felon rule than in almost any other aspect of firearms policy. Since at least 34 percent of all civilians killed by the police were killed in circumstances where a suspect may have been involved in or was fleeing from a burglary or robbery, the clarity of policies on this score seems especially important.

It is not my intention to recommend any particular shooting policy, only to suggest that there is good reason to believe that shooting policies make a difference and thus the development and implementation (by training, review, and discipline) of a reasonable policy ought to be a matter of the highest importance for a police administrator. Nor should the administrator suppose that the community will be willing to leave such policies entirely in the hands of professional police officers. It is unrealistic to imagine that on matters of life and death, elected officials and community organizations will defer entirely to police expertise.

Table 1

City	Number of Shootings	Rate Per 100,000 Population	Rate Per 1,000 Officers	Index Crime Rate
Birmingham	25	8.5	25.0	6628
Detroit	77	5.6	21.8	7817
Indianapolis	28	5.5	7.2	3977
Washington, D.C.	40	5.5	6.0	14,662
Oakland	10	2.9	9.6	11,502
Kansas City	10	2.1	12.2	6376
Portland	6	1.6	4.2	9523

Whatever policy is developed, it will be of little value unless it is codified in a single, easily understood document, made the basis of training programs (including roleplaying and simulation exercises), and linked to an internal review process insuring that careful departmental attention will be given to the circumstances surrounding each discharge of a firearm by an officer. It is possible that there are violence-prone officers just as there are violence-prone civilians, though the evidence is inconclusive on this matter. (One study in Dallas covering shootings over a 3-year period found no clear evidence that some officers are repeatedly involved in these incidents, but this survey was inadequate in a number of respects. [15]) Should it be the case that there are a few officers who frequently shoot under dubious or unjustified circumstances, reassignment to other duties may be in order. The last, and perhaps most sensitive step, is to take such reasonable measures as may enhance community confidence in the implementation and enforcement of a firearms policy. Prompt investigation of incidents, complete and impartial gathering of evidence, full disclosure of the findings of the inquiry, and opportunity for the participation of affected parties may help prevent the growth of suspicion and anger. **FBI**

Footnotes

[1] Lawrence W. Sherman and Robert H. Langworthy, "Measuring Homicide by Police Officers," *Journal of Criminal Law and Criminology*, vol. 70, 1979, pp. 554, 559.

[2] Catherine H. Milton, Jeanne Wahl Halleck, James Lardner, and Gary L. Abrecht, *Police Use of Deadly Force* (Washington, D.C.: Police Foundation, 1977).

[3] James J. Fyfe, "Geographic Correlates of Police Shooting: A Microanalysis," *Journal of Research in Crime and Delinquency*, vol. 17, 1980, pp. 101–113.

[4] R. R. Kania and W. C. Mackey, "Police Violence as a Function of Community Characteristics," *Criminology*, vol. 15, 1977, pp. 27–48.

[5] James J. Fyfe, "Officer Race and Police Shooting," paper prepared for the annual meeting of the American Society of Criminology (November 1979).

[6] Ibid., Tables 6, 8.

[7] Milton, et al., p. 73.

[8] Ibid., pp. 73–78.

[9] Adapted from Milton, et al., pp. 29–30. The Index Crime Rate was calculated from Federal Bureau of Investigation, *Uniform Crime Reports*, 1974.

[10] Gerald F. Uelmen, "Varieties of Police Policy: A Study of Police Policy Regarding the Use of Deadly Force in Los Angeles County," *Loyola of Los Angeles Law Review*, vol. 6, 1973, pp. 1–61.

[11] Milton, et al., p. 31.

[12] Michael Kiernan, "Shooting Policemen in District Declines", *Washington Star*, September 2, 1979, p. B1.

[13] James J. Fyfe, "Administrative Interventions on Police Shooting Discretion: An Empirical Examination," *Journal of Criminal Justice*, vol. 7, 1979, p. 316.

[14] Ibid, p. 319.

[15] Southern Methodist University Law School, "Report on Police Shootings," unpublished report to Dallas Police Department (1974), cited in Milton, et al., p. 95.

Operations

Stadium Security
A Modern Day Approach to Crowd Control

By JOE SHIRLEY

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In the last few years, violence in major league stadiums has become a major concern of those working in stadium operations. Stadiums house professional sports, religious crusades, and rock concerts, with up to 80,000 people in attendance. In the 1960's, individuals dealing with stadium security began to realize that they were facing a whole new ballgame in the area of crowd control.

Reported incidents of stadium violence occurring in recent years include:

- 11 killed in a panic at rock concert
- Security guard thrown head first over a rail by football fans
- Riot in football stadium after rock group failed to perform in the rain—many policemen injured
- Fan runs onto playing field with knife in hand
- High school football game interrupted by sniper fire—three wounded
- Fans storm stage at concert causing injuries to police and security personnel
- 600 people injured at stadium concert
- Professional athletes hit by hard objects thrown from stands
- Baseball game cancelled because of damage to playing field from concert held the previous week
- Thousands of fans invade baseball playing field causing game to be forfeited when order could not be restored

Police files in almost every city are filled with incidents of violence in stadiums. There have been thousands of fights between fans, some resulting in deaths. This type of violence is not unique to the United States; however, we appear to be far ahead of many countries in our approach to crowd control.

An article appearing in a Soviet newspaper reported on a Moscow scientific worker who was so drunk when he left a football game that upon seeing a trolley bus without a crew, he drove it home. The newspaper cited the incident as an example of deterioration in the behavior of Soviet sports fans. The newspaper said drunkenness, hooliganism, ticket speculation, foul language, and women pestering sports stars to marry them were creeping into the sports scene.

In Tel Aviv, an Israeli soccer player was stabbed to death when rioting fans stormed the field near the end of a soccer match.

In London, a soccer game was delayed for 19 minutes when fighting broke out and hundreds of fans spilled onto the field. By the end of the day, 38 persons had been arrested, another 132 ejected from the stadium, and 102 injured.

Most important in stadium security is liaison with the local, State, and Federal law enforcement agencies. Personnel of the Atlanta-Fulton County Stadium emphasize total support of police assigned to stadium crowd control. It is essential that an in-house security force work hand-in-hand with local police, who should be defended in any civil liability case. In addition, police officers who have done outstanding work are presented a plaque or certificate of appreciation during an awards program. Motivation of the police officer can be enhanced by support and recognition.

Joe Shirley

Charles Sanders
Vice President and Business Manager of Atlanta Braves

Maj. Joe Amos
Atlanta Bureau of Police Services

In-House Security Role

The Stadium Operations and Security Department has the responsibility of operating the stadium for all events in the Atlanta-Fulton County Stadium. This in-house security force consists of 30 to 40 uniformed security officers, since it is our experience that a uniformed guard is far more effective than a security officer in a blazer and slacks. More than one-half of the security officers carry firearms and all carry mace and night sticks. For the most part, the in-house security officers work fixed posts. They are assigned to ramps going to restricted areas, at gates to prevent unauthorized entry into the stadium and to confiscate cans and bottles, and at money vaults and clubhouses. In-house security personnel also prevent fans from going onto the field during games—an officer is assigned to each team dugout—and secure the stadium and all gates at the end of an event. They also handle lost children, keep fans away from the players as they exit the stadium, and prevent gate-crashers. Security officers are also sometimes involved in physical confrontations with fans who are fighting. It is best to get the situation under control and turn it over to the police when they arrive on the scene.

It is essential that security officers working in crowds receive many hours of training. Our officers are trained by certified police instructors, with emphasis placed on the mechanics of arrest, self-defense, and firearms training. Like police officers assigned to the stadium, security officers are also recognized at an awards program and receive other benefits to ensure motivation for continued effectiveness.

Stadium Security

The following security considerations are important when operating a major league stadium:

1) Flow of traffic to parking lots and protection of fans in parking lots:

2) Protection of VIP's attending events in the stadium;

3) Bomb threat searches and evacuation;

4) Threats against ballplayers;

5) Emergency evacuation of fans;

6) Key control;

7) Unauthorized entry to clubhouses;

8) Demonstrators and pickets;

9) Confiscation of cans and bottles at the gates;

10) On-field intrusion of fans;

11) Protection of umpires;

12) Stopping fights in the stands;

13) Lost and found;

14) Protection from terrorist group activity;

15) Medical aid.

Crowd Control Techniques

In every stadium around the country there are times when crowd control can be a problem. Special crowd management strategies may be required when items are given away free or when tickets to popular events are sold. There have been instances when individuals have been crushed against fixed barriers when persons in the rear pushed to the front.

To control a crowd trying to obtain items being given away, use rope or saw horses to create a buffer zone directly in front of the distribution point, extending down each end, completely closing off the area. Six or eight entrances should be opened where lines form and are kept orderly by police or security. As the fans purchase their tickets or receive a free item, they should exit at each end. Exits should also be watched by security or police. If the buffer zone becomes crowded, persons should not be permitted to enter until it clears.

30
PLEASE CLEAR THE FIELD
Go with the s

During sporting events, illuminated signs instruct fans to vacate the field.

THE GAME IS NOT OVER
PLEASE CLEAR THE FIELD SO IT MAY BE COMPLETED
17
WTC

When the Atanta Falcons made it into the playoffs in 1978, two to three thousands fans stormed the ticket windows to purchase tickets. To gain control, approximately 20 police officers used a bull horn, 100 feet of heavy rope, and stands to form a wedge and cut through the crowd, creating a buffer zone with the rope and stands. Police officers positioned themselves behind the rope and did not allow anyone inside the buffer zone until the crowd was orderly. At that point, lines were formed and no other problems occurred.

Another helpful technique in crowd control is to video tape crowd activity. A camera with a zoom lens can be used to tape disturbances in crowds. This is especially helpful when police officers eject resisting offenders. When the offenders are sober and in court, their story usually differs from what actually happened. A tape of the incident can be a reliable record when presented in court, as well as solid protection from civil liability.

The best technique to use when handling hostile individuals in crowds is to arrest anyone breaking the law. To maintain order, individuals cannot be permitted to unite against the police.

Police techniques used in crowd control are varied, but may include:

1) Motorized golf carts to patrol the parking lots;

2) Use of mounted patrols and helicopters;

3) Decoy squads in and around the stadium;

4) Involvement with the community;

5) Strict enforcement of city ordinances; and

6) A firm policy of bringing charges against all those who break the law.

Other useful strategies for crowd control include:

1) High visibility and numbers. In any facility that has 50 to 100 thousand fans for sporting events, it is essential that you have a large, very visible security force. A show of force can be most effective if problems are anticipated;

2) In addition to video taping, it is wise to also make photographs of the crowd where there is an unruly atmosphere;

3) Have adequate signs. It is amazing how large, prominent signs can help control crowds;

4) Use PA announcements to influence crowds;

5) In the event of a rock concert, it is vital that the power supply have adequate protection and ample backup; and

6) The stage for outdoor concerts must be almost indestructible. Everything must be done so the show can continue no matter what adverse conditions occur.

Gate Security

Gate security is one of the most important areas of stadium security. The gates have to be totally controlled when spectators are entering and have to be opened fully for exit. There must always be unlocked gates that can be opened on short notice in the event of an emergency.

Control of the gates does not necessarily come into play only on the day of the event. If you have a rock concert, you can expect arrivals up to 24 hours in advance. Some early arrivals will camp out on the property, build fires, and look for weak points to gain entry into the stadium.

An important factor to consider in gate security is when to open. If you open early, you have the added cost of extra staff and clean-up and increased vandalism. If you hold the gates closed too long, there is the possibility of a stampede with persons being injured or killed. Even if you open the gates 4 hours prior to the event, there will still be a frantic rush to get in.

Another important part of gate security is confiscation of cans and bottles. There should be no event in a modern stadium where fans are allowed to bring in cans or bottles. It is always helpful to have a "no cans and bottles" policy printed on the tickets and in any newspaper ads. Other techniques for good gate security are:

1) Have a security officer assigned to each gate;

2) Watch for any cash transactions at gates;

3) Watch for adults entering on a child's ticket;

4) Have adequate containers for confiscation of cans and bottles; and

5) Make sure adequate gates are open through which spectators may exit.

Emergency Evacuation

It is essential to have a well-planned emergency evacuation plan in a stadium security program. A panic situation where spectators are not able to exit could be a tragic experience. All modern stadiums are designed with adequate exits that must be open and unrestricted. Most stadiums were designed with exits for athletic competition, not for festival-type field seating that is seen at rock concerts. Conducting an emergency evacuation is made extremely difficult when there are 20,000 spectators on a playing field, plus occupancy of all main seating areas. The following steps would be taken during such evacuation of the Atlanta-Fulton County Stadium:

1) Announcement over our PA system for doctor no. 5,000 to report to customer service. This announcement alerts all operations personnel that we are going to evacuate;

2) Remove turnstiles from all gates so fans will not encounter any obstructions;

3) Fully open all gates;

4) Announce to fans that we have to evacuate the stadium and they should exit at the nearest gate in an orderly manner. We request that they take all personal items such as brief cases, overcoats, and packages; and

5) All players and umpires should report to the center of the playing field and remain there. (This could change depending on the type of evacuation.)

Emergency lighting could be critical in a major nighttime disaster. On some occasions there is little or no advance warning for evacuation. Well-rehearsed, trained personnel are essential in these instances.

Medical Program

The medical program at Atlanta-Fulton County Stadium is a part of the Stadium Operations and Security Department. With crowds exceeding 60,000, emergency medical services comparable to a city of that size must be provided. There should be a minimum medical staff of one R.N., one M.D., and two paramedics. The staff increases as the anticipated crowd increases. A policy of rendering only emergency first aid is desirable. You should maintain the same emergency equipment for heart attack victims as a hospital emergency room.

There are several areas of importance in the operation of a stadium medical program including:

1) Good communications should exist. Due to the size of most major league stadiums, it is essential that there is an adequate number of walkie-talkies so that when a person is injured, no more than 2 minutes elapse before help is on the way;

2) It is important to have a stadium ambulance in good working order. A stadium ambulance is a golf cart equipped with the necessary emergency equipment and engineered to accommodate a stretcher;

3) Each person receiving emergency first aid should, if at all possible, complete a report with all information regarding the injury; and

4) All R.N.'s and paramedics should receive annual cardiopulmonary resuscitation certification.

Terrorism

A stadium full of people could be a prime area for assassinations, kidnappings, taking of hostages, bombings, armed attacks, or extortions. Where, other than stadiums, could a terrorist group find such a concentration of people? You must have liaison with local authorities and the FBI to advise on any potential terrorist activities. You must be constantly aware of terrorism as more terrorists acts will probably occur in this country and some possibly in stadiums.

Conclusion

All crowds are potentially violent. It is possible for a group of law-abiding citizens to turn into a rock-throwing abusive mob. All it takes is a leader, a common enemy, and the anonymity of the group. Leaders in a crowd, as they try to incite others, sometimes appear as if they have specialized training in arousing crowds to violence. It is incredible how a person will go along with a leader who is shouting and inciting a large group of people. An otherwise law-abiding citizen experiences the safety of anonymity in a crowd. That feeling of anonymity can be removed by breaking up the crowd, by using a camera, and by shouting explicit orders while pointing at a specific individual. A properly selected and trained staff will insure a "winning season" for a stadium security staff. **FBI**

ENTERING PREMISES TO ARREST

An Analysis of the Warrant Requirement

(Part 1)

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

At the core of the fourth amendment to the U.S. Constitution [1] is the fundamental notion that governmental intrusions into private premises or areas where an individual has a reasonable expectation of privacy [2] should be carefully controlled. As a general rule, protection against unreasonable searches and seizures is afforded by the constitutionally imposed requirement that a warrant be obtained from a neutral and detached magistrate who can balance important privacy and liberty interests against the often-competing interests of effective law enforcement.

Frequently, law enforcement officers are confronted with difficult questions pertaining to their legal authority to enter premises to make an arrest. One of the most significant of those legal issues concerns the extent to which the warrant requirement applies to the facts of a particular case. It is important to address, in detail, the following questions concerning the applicability of the warrant requirement in the context of entering premises to make an arrest. What kind of warrant, if any, is constitutionally required to enter a suspect's premises to make an arrest? What kind of warrant, if any, is constitutionally required to enter the premises of a third party to arrest a suspect? What constitutes the existence of exigent circumstances justifying a warrantless entry? And, what are the consequences of entering in violation of the warrant requirement?

On April 15, 1980, the U.S. Supreme Court announced its opinion in the case of *Payton* v. *New York.*[3] *Payton* provides definitive answers to some of the above-mentioned questions, while leaving others unresolved. However, there are a number of lower Federal and State court decisions that have addressed many of the legal questions left unanswered by the Supreme Court in *Payton.*

The first part of this article will provide an historical perspective of the law concerning the government's decisions to enter premises to arrest and a detailed look at the *Payton* opinion and its impact. The second part will examine many of the lower court decisions that address questions not directly answered by the Supreme Court in *Payton.*

Historical Perspective

Supreme Court Litigation

Prior to *Payton,* the U.S. Supreme Court had never addressed squarely the legality of a warrantless entry into private premises to effect an arrest. In fact, on a number of previous occasions while deciding related issues, the Court specifically noted that this precise question remained open. [4] Nevertheless, dicta (comments not necessary to the resolution of a case) in previous Supreme Court opinions provided some insight as to the thinking of various members of the Court on this important issue. The diversity of opinion within the Court first became apparent in 1969 in *Chimel* v. *California,* when Mr. Justice White contended in his dissenting opinion that a warrantless entry for the purpose of arrest, based upon probable cause, is lawful, regardless of the existence of exigent circumstances. [5]

The conflict in the Court appeared again in *Coolidge* v. *New Hampshire* (1971), wherein Justice Stewart, writing for the majority, characterized a police entry into a home to effect an arrest as a "very substantial intrusion" and continued:

> "It is clear, then, that the notion that the warrantless entry of a man's house in order to arrest him on probable cause is *per se* legitimate is in fundamental conflict with the basic principle of Fourth Amendment law that searches and seizures inside a man's house without warrant are *per se* unreasonable in the absence of some one of a number of well defined 'exigent circumstances'."
>
> * * * *
>
> "Indeed, if Mr. Justice White is correct that it has generally been assumed that the Fourth Amendment is not violated by the warrantless entry of a man's house for purposes of arrest, it might be wise to re-examine the assumption." [6]

More recently, in *United States* v. *Watson* (1976) and *United States* v. *Santana* (1976), the Court considered a closely related issue. [7] *Watson* presented the question of whether a warrantless arrest in a public place was lawful in a situation wherein the officers had sufficient time to obtain a warrant but failed to do so. Justice White authored the majority opinion upholding the validity of the warrantless arrest. Justices Brennan and Marshall dissented on the basis that the proper approach is to subject all warrantless arrests to the same rules developed for warrantless searches, thus requiring an arrest warrant in the absence of exigent circumstances. [8] The most recent Supreme Court case touching on this issue was *Santana,* which involved a warrantless arrest in the vestibule of a suspect's residence after the suspect retreated from the doorway upon approach of the officers. [9] A majority of the Court found that this case presented the same issue decided previously in *Watson*—the legality of a warrantless public arrest—and again validated the arrest. But in *Santana,* the divergence of opinion on the issue of arrests in private premises was evident. In a concurring opinion, Justice White indicated, as he had previously in *Chimel* and *Coolidge,* that a warrant is not required to enter a home to arrest. Rather, probable cause to arrest and probable cause to believe a suspect is in the house are sufficient to satisfy the fourth amendment. [10] Justices Marshall and Brennan dissented in *Santana,* again expressing their view that absent exigent circumstances, all warrantless arrests are improper—particularly those involving entry into private premises to arrest. [11]

In summary, although no previous case directly considered the issue of warrantless entry to arrest, two facts were apparent from a careful reading of earlier Supreme Court decisions: (1) A majority of the Court recognized that arrests in private premises presented a more difficult fourth amendment issue than public-place arrests; and (2) certain members of the Court had widely divergent views, Justice White believing that no arrest warrant should be required regardless of the location of the arrest, and Justices Brennan and Marshall arguing that all arrests, public or otherwise, should require arrest warrants in the absence of exigent circumstances.

Common Law Ambiguity

When faced with the task of interpreting the meaning of the fourth amendment, courts often return for guidance to the early body of rules and principles which were originated, developed, and administered in England at the time of the adoption of the fourth amendment, often referred to as the common law. Indeed, in upholding the validity of warrantless arrests in public places in the *Watson* case, the Supreme Court placed substantial reliance on the undisputed common law rule that allowed such arrests based upon probable cause to believe the suspect had committed a felony. [12]

"'. . . the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant'."

However, an examination of the common law rule regarding the legality of warrantless home arrests reveals a sharp divergence of views. Justice Stevens, writing for the majority in *Payton*, noted that three distinct views were expressed by the common law commentators:

> "Lord Coke, widely recognized by the American Colonists 'as the greatest authority of his time on the law of England,' clearly viewed a warrantless entry for the purpose of arrest to be illegal. Burn, Foster and Hawkins agreed, as did East and Russell, though the latter two qualified their opinions. . . . Blackstone, Chitty and Stephen took the opposite view, that entry to arrest without a warrant was legal, though Stephen relied on Blackstone who, along with Chitty, in turn relied exclusively on Hale. But Hale's view was not quite so unequivocally expressed. [13] (citations omitted)
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> * * * *
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> "In all events, the issue is not one that can be said to have been definitively settled by the common law at the time the Fourth Amendment was adopted." [14]

Modern legal commentators who have examined the major common law authorities arrive at a similar conclusion—there is no consensus on the subject. [15]

Prior State Court Decisions and Legislation

If the weight of authority as to the common law rule was difficult to ascertain, no such ambiguity existed as to the status of the law in a majority of the States prior to *Payton*. Although sources may have arrived at slightly different totals, legal commentators and courts uniformly agreed that a majority of the States which had taken a position on the issue permitted warrantless entry into the home to arrest, even in the absence of exigent circumstances. One commentator assessed the situation in 1978 as follows: "State Courts are evenly divided on the issue; and . . . all but a few state legislatures . . . have sanctioned them." [16] (citations omitted)

In *Payton*, the Supreme Court calculated the figures as follows:

> "At this time, 24 States permit such warrantless entries; 15 States clearly prohibit them, though three States do so on federal constitutional grounds alone; and 11 States have apparently taken no position on the question." [17] (citations omitted)

While recognizing that the clear majority of States still allowed warrantless entries to arrest, the Supreme Court noted in *Payton* that the *trend* of recent decisions was to the contrary. Ten of the 12 State courts of last resort considering the issue held that absent some exigent circumstance, warrantless entries into the home to arrest are invalid. [18] Only the Supreme Court of Florida [19] and the New York Court of Appeals (in *Payton*) [20] expressly upheld warrantless entries to arrest in the face of a direct constitutional challenge.

Thus, it may fairly be said that the number of States sanctioning such warrantless entries in the absence of special circumstances, though still a majority, was declining in recent years. [21]

Prior Federal Court Decisions

If, at the time *Payton* reached the Supreme Court, the clear weight of State judicial and legislative authority was supportive of warrantless arrests in private dwellings, it was equally certain that the contrary view predominated among the Federal appellate courts.

As early as 1949, the U.S. Court of Appeals for the District of Columbia held that a warrantless and forcible entry into a suspect's home for purpose of arrest was improper, unless it was required by "the necessities of the moment." [22] This general principle was reaffirmed by the same court in *Dorman* v. *United States*, [23] a 1970 case involving a nonconsensual, but peaceable, entry into the suspect's residence in order to arrest. Writing for the majority, Judge Leventhal stated:

> "We now come to the question whether the general requirement of a warrant as a condition for entry into a house is subject to an exception where the entry is for the purpose of making an arrest of a suspected felon. As we shall later point out, the requirement of a warrant may be excused where circumstances do not tolerate delay, like that incident to obtaining a warrant, of an officer making an arrest. But the basic principle, the constitutional safeguard that, with room for exceptions, assures citizens the privacy and security of their homes unless a judicial officer determines that it must be overridden, is applicable not only in case of entry to search for property, but also in case of entry in order to arrest a suspect." [24]

The court then went on to explain in some detail the factors which should be considered in assessing whether the circumstances are such as to justify an exception to the general warrant requirement, generally referred to as "exigent" or "necessitous" circumstances or "urgent need."[25]

In the decade from 1970 to the present, 7 of the remaining 10 Federal appellate courts adopted the principle set forth in *Dorman*, either directly by holding that warrantless entries to arrest are unconstitutional in the absence of exigent circumstances,[26] or implicitly by assuming that exigent circumstances must be present to uphold such entries and arrests.[27] Only three Federal courts of appeal upheld warrantless entries into private premises to arrest in the absence of necessitous circumstances.[28]

In the *Payton* opinion, the Supreme Court noted the weight of authority among the Federal appellate courts and cited *Dorman* and a later Federal case, adopting its reasoning as "persuasive and in accord with this Court's Fourth Amendment decisions."[29]

The *Payton* Decision

At issue in *Payton* and a companion case, *Riddick* v. *New York*, was the constitutionality of New York statutes that authorized police to enter private premises without a warrant and with force, if necessary, to make routine felony arrests.

On January 14, 1970, after 2 days of intensive investigation, New York detectives had assembled evidence sufficient to establish probable cause to believe that Theodore Payton had murdered the manager of a gas station 2 days earlier. At about 7:30 a.m. on January 15, six officers went to Payton's apartment in the Bronx, intending to arrest him. They had not obtained a warrant. Although light and music emanated from the apartment, there was no response to their knock on the metal door. They summoned emergency assistance, and about 30 minutes later, used crowbars to break open the door and enter the apartment. No one was there. In plain view, however, was a 30-caliber shell casing that was seized and later admitted into evidence at Payton's murder trial. In due course, Payton surrendered to the police, was indicted for murder, and moved to suppress the evidence taken from his apartment.

On March 14, 1974, Obie Riddick was arrested for the commission of two armed robberies that had occurred in 1971. He had been identified by the victims in June of 1973, and in January 1974, the police learned his address. They did not obtain a warrant for his arrest. At about noon on March 14, a detective, accompanied by three other officers, knocked on the door of the Queens house where Riddick was living. When his young son opened the door, they could see Riddick sitting in bed covered by a sheet. They entered the house and placed him under arrest. Before permitting him to dress, they opened a chest of drawers 2 feet from the bed in search of weapons and found narcotics and related paraphernalia. Riddick was subsequently indicted on narcotics charges and moved to suppress the narcotics evidence taken from his residence.

In affirming the convictions of both Payton and Riddick, the New York Court of Appeals in a 4-to-3 decision reasoned that in both cases the warrantless nonconsensual entry into private premises to arrest was reasonable, because such entries are less intrusive than entries to search for evidence and were historically accepted both in English common law and in the practice of many American States.[30]

By a 6-to-3 vote, the U.S. Supreme Court reversed the decision of the New York Court of Appeals and ruled that the 4th amendment to the U.S. Constitution, made applicable to the States by the 14th amendment, prohibits the police from making warrantless and nonconsensual entries into a suspect's home in order to make routine felony arrests.[31]

Before examining the opinion in *Payton*, it is important to note those legal issues that were not addressed by the Supreme Court. First, the Court did not consider the question of whether the warrantless entries in either case might have been justified by exigent circumstances, since that issue was not ruled upon by the New York Court of Appeals.[32] Second, the Court did not rule on the authority of the police, without either an arrest or search warrant, to enter a third party's home to arrest a suspect.[33] Third, both cases were treated as involving nonconsensual entries, accompanied by probable cause to believe the suspect was at home at the time of the entry.[34]

". . . a State court may impose as a result of State law interpretation more rigorous requirements than those mandated by the U.S. Constitution."

The Supreme Court in reaching its decision considered the common law, State and Federal statutes, and prior State and Federal court litigation, much of which is discussed in this article. While observing some of that legal authority and custom would support the decision of the New York Court of Appeals, the Supreme Court nevertheless concluded that the widespread practice of making warrantless entries to arrest is not immune from constitutional scrutiny. Accordingly, the Court ruled that the entries at issue in *Payton* were constitutionally unreasonable.[35]

The majority opinion in *Payton* endorsed the notion that the fourth amendment condemns as presumptively unreasonable warrantless searches and seizures inside a home, whether such searches are for evidence of crime or a person to be arrested.[36] The Court noted that the physical entry of the home is the chief evil against which the wording of the fourth amendment is directed and that a warrant requirement minimizes the danger of needless intrusions.[37]

The Court then distinguished in traditional fourth amendment terms the reasonableness of warrantless arrests made in public places from those that require entry into private premises. Arrests in public do not implicate important privacy interests in the sanctity of the home.[38] Moreover, while observing that entries into the home to search for evidence may constitute broader and more intrusive searches into areas of privacy than entries to arrest, the Court concluded those differences were ones of degree rather than kind and that they both involved breaches of the entrance to an individual's home.[39] In that regard, the Court stated:

> "In terms that apply equally to seizures of property and to seizures of persons, the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant."[40]

The Court then dealt with the argument that ordinarily a search warrant is required before the government is permitted to intrude into the privacy of a home. While apparently conceding that an arrest warrant may afford less protection than a search warrant, the Court concluded that where the government produces facts which are sufficient to persuade a judicial officer that there is probable cause to arrest an individual, it is constitutionally reasonable to require that person to open his doors to the officers of the law when they have reason to believe he is within.[41] The rule adopted by the Court was stated as follows:

> ". . . for Fourth Amendment purposes, an *arrest warrant* founded on probable cause implicitly carries with it the limited authority to enter a *dwelling in which the suspect lives* when there is reason to believe the suspect is within."[42] (emphasis added)

Impact of *Payton*

Attempting to predict the ultimate impact a particular case will have on police procedures and the administration of justice is often difficult and somewhat speculative. However, there are several obvious implications of the *Payton* decision that merit attention. First, the law in 24 States[43] that previously permitted warrantless entries to make routine felony arrests is directly affected by *Payton*, which holds that an arrest warrant is constitutionally required to enter the suspect's premises to make an arrest, absent exigent circumstances. Moreover, *Payton* disposes of any argument that the fourth amendment requires a search warrant to enter the suspect's premises to make an arrest. In this regard, it should be noted that a State court may impose as a result of State law interpretation more rigorous requirements than those mandated by the U.S. Constitution.

Second, in those instances where an arrest warrant is constitutionally required prior to an entry into premises to make an arrest, the quality of the arrest warrant will now be a constitutionally significant issue that may be raised by defense counsel. Therefore, it seems imperative that careful attention be paid to the warrant application procedure to insure that an adequate statement of the facts constituting probable cause[44] is presented to a neutral and detached magistrate[45] prior to the issuance of the warrant.

Third, failure to obtain a constitutionally sufficient arrest warrant for those entries where one is required by *Payton* will likely result in the suppression of any evidence obtained by the police as a direct result of that arrest. This would include any evidence seized in plain view inside the premises entered, any evidence seized in a search incident to the arrest, and possibly even incriminating statements obtained from the suspect shortly after the arrest.[46] In addition, the failure of police to adhere to a constitutional requirement substantially increases the possibility of subsequent civil suits.

Fourth, the ruling in *Payton* will clearly place some additional burdens on the judicial systems of many jurisdictions, both with respect to the number of warrants that will be sought and increased litigation concerning the question of what constitutes exigent circumstances justifying a warrantless entry. In this context, the second part of this article will contain an examination of previous litigation concerning the issue of exigent circumstances and some suggestions which may prove helpful in formulating agency policy. **FBI**

(Continued next month)

Footnotes

[1] U.S. Constitution Amendment IV provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[2] *Katz* v. *United States*, 389 U.S. 347 (1967).

[3] 63 L. Ed. 2d 639 (1980).

[4] *United States* v. *Watson*, 423 U.S. 411, 418 n. 6 (1976); *United States* v. *Santana*, 427 U.S. 38, 45 (1967) (Justice Marshall, dissenting); *Coolidge* v. *New Hampshire*, 403 U.S. 443, 481 (1971).

[5] *Chimel* v. *California*, 395 U.S. 752, 778 (1969) (Justice White, dissenting).

[6] *Coolidge* v. *New Hampshire*, *supra* note 4, at 477–78, 480.

[7] *United States* v. *Watson*, *supra* note 4; *United States* v. *Santana*, *supra* note 4.

[8] *United States* v. *Watson*, *supra* note 4, at 453 (Justice Marshall, joined by Justice Brennan, dissenting).

[9] *United States* v. *Santana*, *supra* note 4.

[10] *Id.* at 43–44 (Justice White, concurring).

[11] *Id.* at 45–46 (Justice Marshall, joined by Justice Brennan, dissenting).

[12] *United States* v. *Watson*, *supra* note 4, at 418–421 and at 429–30 (Justice Powell, concurring).

[13] *Payton* v. *New York*, *supra* note 3, at 655–56.

[14] *Id.* at 658.

[15] Comment, The Constitutionality of Warrantless Home Arrests, 78 Colum. L. Rev. 1550, 1551–53 (hereinafter Columbia Comment); also see materials cited in *Payton* v. *New York*, *supra* note 3, at 655 n. 35.

[16] Columbia Comment, *supra* note 15, at 1553–55.

[17] *Payton* v. *New York*, *supra* note 3, at 658.
The Supreme Court calculated the breakdown on the issue as follows—23 States authorized such warrantless entries by statutes (Alabama, Alaska, Arkansas, Florida, Hawaii, Idaho, Illinois, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Utah, Washington.) Additionally, Kentucky has authorized warrantless arrest entries by judicial decision.
Four States prohibited warrantless arrests in the home by statute—Georgia, Indiana, Montana, South Carolina and one, Texas, by State common law.
The following 10 prohibited such warrantless entries on constitutional grounds—Arizona, California, Colorado, Iowa, Kansas, Massachusetts, Oregon, Pennsylvania, West Virginia, and Wisconsin.

[18] *State* v. *Cook*, 115 Ariz. 188, 564 P. 2d 877 (1977); *People* v. *Ramey*, 16 Cal. 3d 263, 545 P. 2d 1333 (1976), *cert. denied*, 429 U.S. 929; *People* v. *Moreno*, 176 Colo. 488, 491 P. 2d 575 (1971); *State* v. *Jones*, 274 N.W. 2d 273 (Iowa 1979); *State* v. *Platten*, 225 Kan. 764, 594 P. 2d 201 (1979); *Commonwealth* v. *Forde*, 367 Mass. 798, 329 N.E. 2d 717 (1975); *State* v. *Olson*, 287 Ore. 157, 598 P. 2d 670 (1979); *Commonwealth* v. *Williams*, 483 Pa. 293, 396 A. 2d 1177 (1978); *State* v. *McNeal*, 251 S.E. 2d 484 (W.Va. 1978); *Laasch* v. *State*, 84 Wis. 2d 587, 267 N.W. 2d 278 (1978).

[19] *State* v. *Perez*, 277 So. 2d 778 (Fla. 1973), *cert. denied*, 414 U.S. 1064.

[20] *People* v. *Payton*, 380 N.E. 2d 224 (N.Y. 1978).

[21] Compare the statistics provided in Columbia Comment, *supra* note 15, at 1553 n. 24 and 26, to compilation in the *Payton* opinion, *supra* note 3, at 658 n. 46, 47 and 48.

[22] *Accarino* v. *United States*, 179 F. 2d 456, 464 (D.C. Cir. 1949).

[23] 435 F. 2d 385 (D.C. Cir. 1970) (*En Banc*).

[24] *Id.* at 390.

[25] *Id.* at 392–93.

[26] *United States* v. *Reed*, 572 F. 2d 412 (2d Cir. 1978), *cert. denied*, 439 U.S. 913; *United States* v. *Campbell*, 581 F. 2d 22 (2d Cir. 1978); *United States* v. *Shye*, 492 F. 2d 886 (6th Cir. 1974); *United States* v. *Killebrew*, 560 F. 2d 729 (6th Cir. 1977); *United States* v. *Houle*, 603 F. 2d 1297 (8th Cir. 1979); *United States* v. *Prescott*, 581 F. 2d 1343 (9th Cir. 1978) (suggesting a *search* warrant would be required if time was available to obtain one prior to entry into third-party premises).

[27] *United States* v. *Bradley*, 455 F. 2d 1181 (1st Cir. 1972); *United States* v. *Davis*, 461 F. 2d 1026 (3d Cir. 1972); *Vance* v. *North Carolina*, 432 F. 2d 984 (4th Cir. 1970).

[28] *United States* v. *Williams*, 573 F. 2d 348 (5th Cir. 1978); *United States ex rel. Wright* v. *Woods*, 432 F. 2d 1143 (7th Cir. 1970), *cert. denied*, 401 U.S. 966; *Michael* v. *United States*, 393 F. 2d 22 (10th Cir. 1968) (upholding the entry and arrest without discussing the constitutional issue).

[29] *Payton* v. *New York*, *supra* note 3, at 651–52.

[30] *People* v. *Payton*, 45 N.Y. 2d 300, 309–312; 380 N.E. 2d 224, 228–230 (1978).

[31] 63 L. Ed. 2d at 644.

[32] *Id.* at 648.

[33] *Id.* at 649.

[34] *Id.*

[35] *Id.* at 659.

[36] *Id.* at 650–651.

[37] *Id.*

[38] *Id.* at 652.

[39] *Id.* at 652–653.

[40] *Id.* at 653.

[41] *Id.* at 660–661.

[42] *Id.* at 661.

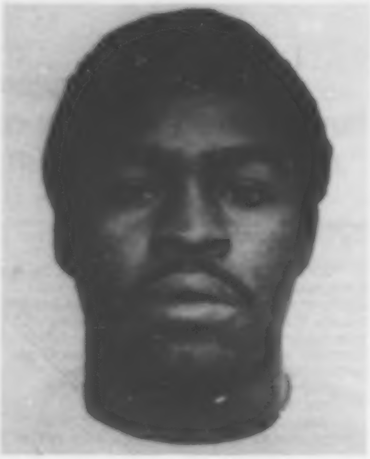
[43] *Id.* at 658, n. 46.

[44] *Whiteley* v. *Warden*, 401 U.S. 650 (1971).

[45] *Shadwick* v. *City of Tampa*, 407 U.S. 345 (1972).

[46] *Brown* v. *Illinois*, 422 U.S. 590 (1975).

WANTED BY THE FBI



Photograph taken 1973.

Loran D. Logan

Loran D. Logan, also known as Larry Donald Logan, "Huck."

Wanted For:

Interstate Flight—Murder.

The Crime

Logan is being sought for the murders of three persons who were allegedly shot with a .44-magnum revolver during a narcotics robbery.

A Federal warrant for his arrest was issued on October 15, 1976, at Columbia, S.C.

Criminal Record

Logan has been convicted of selling heroin.

Description

Age	26, born November 20, 1953, Georgetown, S.C.
Height	5'11" to 6'1".
Weight	192 to 205 pounds.
Build	Medium.
Hair	Black.
Eyes	Brown.
Complexion	Dark.
Race	Negro.
Nationality	American.
Occupations	Bellboy, bricklayer's helper, carpenter's helper, janitor, laborer, longshoreman, welder.
Scars and Marks	Burn scar on left side of face.
Remarks	May be wearing full beard and mustache or may be bald and clean shaven. Reportedly wears red, black, and green AFRO liberation wristband on left wrist.
Social Security No. Used	247-96-5066.
FBI No.	270,338 L11.

Caution

Logan should be considered armed and extremely dangerous.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data:

NCIC Classification:

211715131017PI171310

Fingerprint Classification:

21 M 1 U OOI 10 Ref: 1

L 3 W IOI 1

Right ring fingerprint.

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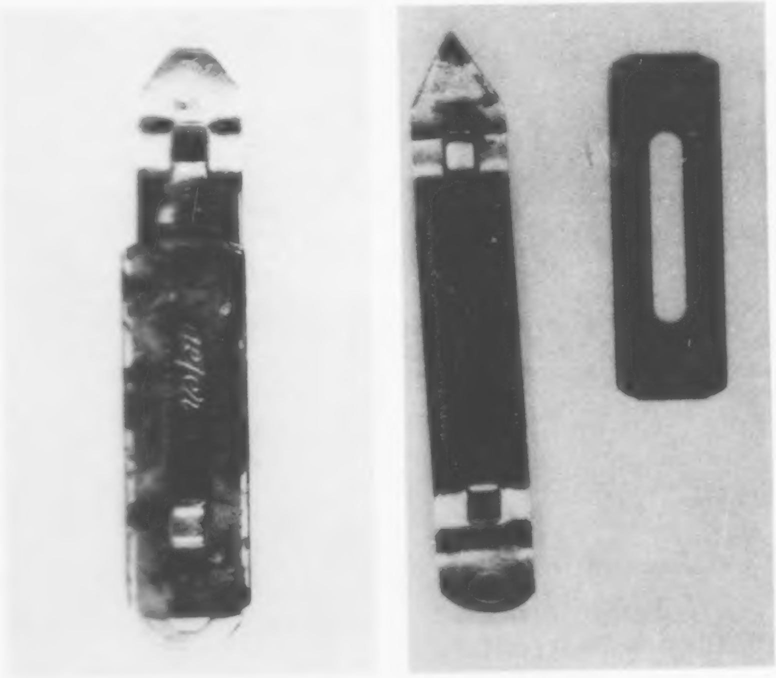
Undiscovered Razor Blade

Undiscovered by the arresting officer, this weapon was removed from the pocket of a prisoner being booked into the Fairfax County, Va., Adult Detention Center. The weapon was constructed by attaching a razor blade to a can opener. When held in a downright position, the edges of the razor protrude slightly past the edges of the can opener. Even if displayed, this weapon is not readily identified as a potentially dangerous weapon.

(Submitted by the Fairfax County, Va., Sheriff's Dept.)



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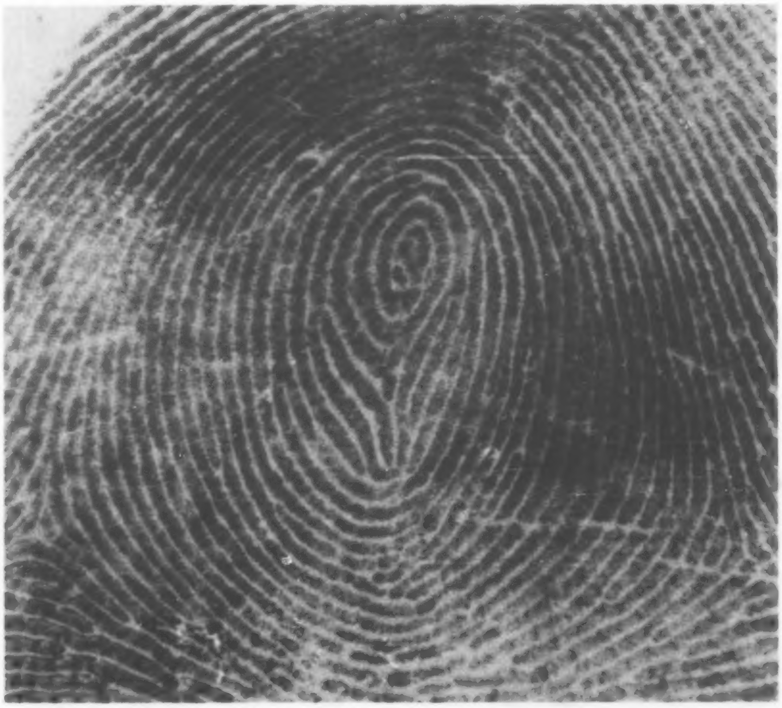
This pattern is of interest because of the unusual ridge formation found at the center. The impression is classified as an accidental-type whorl with an outer tracing.



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FBI LAW ENFORCEMENT BULLETIN

SEPTEMBER 1980

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Uniform Crime Reports
50th ANNIVERSARY

Director's Message

Undercover work—why does the FBI use it? What do we hope to achieve by it?

Undercover work allows the FBI to use its resources to better attack certain crime problems under our jurisdiction and to complement the efforts of State and local law enforcement to the best advantage of the Nation as a whole—to reach beyond the streets to the very heart of criminal enterprises.

We want to get at those who operate through fraud, violence, and intimidation. We want to identify those who are willing to violate their trust to corruptly support the operators of criminal enterprises.

Last year our spending for undercover work amounted to about one-half of 1 percent of our total budget, and this year I have requested a modest increase—from $3.6 million to $4.5 million. This compares most favorably with actual recoveries of more than $190 million last year from these operations and does not try to estimate the potential economic losses averted by shutting down a variety of criminal enterprises.

Undercover operations last year were used in each of our major programs—foreign counterintelligence, organized crime, white-collar crime, and property crimes. While it has been necessary to curtail some operations for a variety of reasons—protection of informants or our Special Agents, fiscal constraints, and premature publicity—the hallmark of these well-planned undercover operations is "staying power." The longest—a penetration of a Weather Underground terrorist cell—lasted over 4 years and ended only to prevent a planned bombing of a California State Senator's office.

Some, but certainly not all, of our undercover investigations lead us to corrupt public officials. Organized crime needs an early warning system; those who commit major frauds against the Government need assistance from office holders willing, for a price, to look the other way or else supply some other form of competitive advantage. The power brokers—those who have the contacts with such public officials—form the catalyst for corruption and are themselves targets of our investigations. Because such activities are rarely conducted in the public market place, the undercover operation is especially well-suited to detecting and investigating this form of white-collar crime.

We have been developing in the last year and a half a very important institutional knowledge, based on the experience of a number of undercover operations now underway and those that have been completed. This area raises some unique management problems, but like good lawyers, we don't turn down operations because there's a problem. We try to find an appropriate solution so that the project, if worthy, can function effectively and within the rule of law.

My colleagues in the police profession know that undercover work is *not* a panacea for law enforcement; it *is* an important tool. It will not substitute for hard, exacting, traditional investigative work, but it does offer us the best potential to reach beyond the streets.

Despite the dramatic success of undercover work, there remain nagging questions of the "what if" variety. Do we give up too much to get these results? Is this technique overly or indiscriminately intrusive? Can we control it? These are fair questions.

We in the FBI recognize that our mission must be accomplished within the same legal structure that the FBI is designed to protect.
The care we take in the legal training of our Agents and in keeping all Agents abreast of the changes of the law affecting these investigations demonstrates, I believe, the depth of our commitment. Our goal is to achieve the proper balance between the intrusive level of law enforcement necessary to do our job and the level of protection of individual rights demanded by the Constitution and the American people.

William H Webster

William H. Webster
Director
September 1, 1980

FBI LAW ENFORCEMENT BULLETIN

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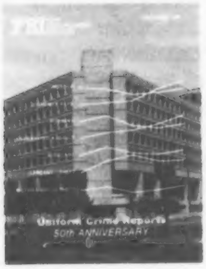

THE COVER: This month, the FBI's Uniform Crime Reporting Program completes 50 years of service to the law enforcement community. See story p. 2.

**Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535**

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

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Records

The Uniform Crime Reporting Program

50 YEARS OF PROGRESS

Special Agent Zolbe

By PAUL A. ZOLBE
Section Chief
Uniform Crime Reporting Section
Federal Bureau of Investigation
Washington, D.C.

A proud and enduring association between the FBI and the Uniform Crime Reporting (UCR) Program began on September 1, 1930. In the half century since then, the program has grown from a specialized guide of law enforcement activity to one of the most widely quoted social indices of our time. Where the Uniform Crime Reports were once a tool exclusively for police chiefs and law enforcement administrators, they are now a common research resource of sociologists, legislators, municipal planners, scholars, the press, concerned citizens, and criminal justice practitioners at all jurisdictional levels.

The Beginning

The need for uniform police statistics had been expressed frequently among law enforcement leaders and organizations for many years preceding and following the turn of the century. While these oft-voiced concerns generated little effective effort to create workable programs, they were kept alive within the leadership and conference structure of the International Association of Chiefs of Police (IACP).

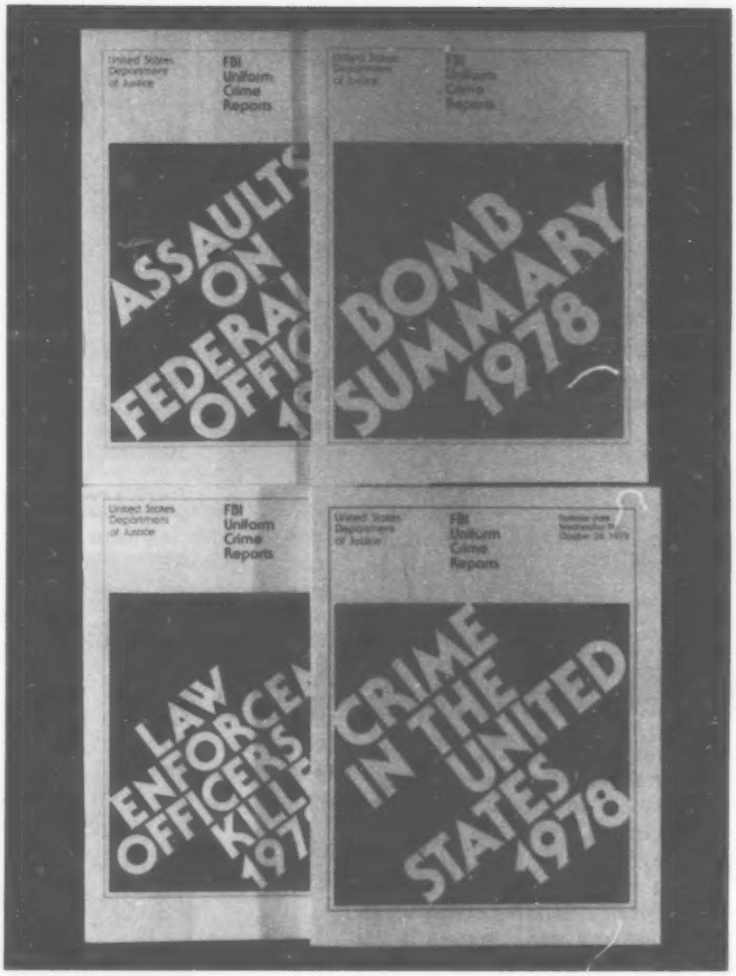
In 1927, a Committee on Uniform Crime Records was formed by the IACP. With the cooperation of an impressive array of international criminal justice administrators, criminologists, academicians, and managers of concerned public and private institutions, the committee was given the responsibility to develop a nationwide system of uniform police statistics that would not only serve law enforcement administrators but would provide a measure of criminal activity throughout the country.

The committee's task was awesome. It had to inspire order and discipline in a haphazard assortment of recordkeeping practices used by thousands of law enforcement agencies and somehow develop uniform crime classifications among these distinct jurisdictional interests which, for the most part, were responsible for criminal codes bearing scant resemblance to one another in their definitions of offenses. Fortunately, the committee met the challenge and in November 1929, published its plan in the book entitled "Uniform Crime Reporting." As a monument to the committee's thoroughness and foresight, the book still serves as the definitive framework of the UCR Program.

In January 1930, the IACP implemented the plan of the Committee on Uniform Crime Records, and among a small group of cooperating law enforcement agencies, began the collection of uniform categories of statistics based on crimes known to the police.

This data base—crimes known to the police—is the keystone of the UCR Program. It was carefully selected by the committee as the most accurate point of reference in the crime discovery process, as well as the base indicated by the accumulated experiences of operational police statistics programs in Europe.

At the outset, the IACP recognized that in order for this highly disciplined effort to succeed, it would have to foster a very unselfish level of professional cooperation among the multitude of agencies the program hoped to serve and on which it depended for data. To carry out the day-to-day administration of the program, an organization was needed that was knowledgeable in police affairs, had the demonstrated ability to manage a nationwide data collection effort, had the confidence of the law enforcement community, and had daily contacts at an operational level with law enforcement agencies throughout the country. As a result, the U.S. Congress, at the invitation of the IACP, enacted legislation under Title 28, section 534, of the U.S. Code, authorizing the FBI to serve as the national clearinghouse for data collected under the program. The Committee on Uniform Crime Records of the IACP continues as a consulting body for the program, and any substantive changes to the program are reviewed by this committee.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CRIME IN THE UNITED STATES 1978

Statistical assistants enter data into UCR system via intelligent-type minicomputer.

Historical UCR statistics are also stored on microfilm for ready retrieval in response to requests from data users.

The FBI's main computer system is used to store UCR data for retrieval of summary tabulations.

Statistical assistants have access to over 15,000 agency files as part of the verification process.

Although the Uniform Crime Reports have earned considerable recognition for its estimated crime trends, the program's purpose was, and continues to be, to produce a reliable set of crime-related statistics on a national basis for use in law enforcement administration, operation, and management.

The Program

The Uniform Crime Reports produce four distinct groups of comprehensive statistical data. These are: 1) The volume of certain serious offenses known to the police, 2) the number of known offenses which are cleared by arrest, 3) the age, sex, and race of persons arrested, and 4) police employee information.

Arrest data are collected for all crimes except traffic violations, while reports of crime incidents are limited to eight Crime Index offenses. These are murder, forcible rape, aggravated assault, robbery, burglary, larceny-theft, motor vehicle theft, and arson. The first seven Crime Index offenses were selected at the outset of the program because of their general acceptance as serious crimes, their frequent occurrence, and the fact that they were reliably and promptly reported to the police. Arson became a Crime Index offense in 1979 as a result of congressional mandate. Much like the volume of selected stocks on the Dow Jones Index are used to gage price trends for the thousands of securities on the New York Stock Exchange, the volume of eight Crime Index offenses are used to measure trends in the hundreds of different crimes normally coming to the attention of the police.

Although all Crime Index offenses are serious crimes, all serious crimes are not Crime Index offenses. Because of the fact that they occur infrequently, are not reliably reported to the police, or do not readily reveal themselves as criminal acts at the time of their occurrence, some serious crimes are inadequate as an index to the volume of crime at a particular time and at a particular place—the purpose of the Crime Index offenses.

Not all law enforcement agencies participate in the UCR Program, but the populations within the jurisdictions of those that do participate account for nearly all of the Nation's population. As a result, the program provides an estimate of the total volume of Crime Index offenses for the country as if all law enforcement agencies participated in reporting them.

The Uniform Crime Reports are published annually by the FBI in the bulletin entitled "Crime in the United States," which contains detailed and varied textual, graphic, and tabular presentations of the data collected under the program. This annual publication is supplemented by semiannual press releases showing trends in the volume of Crime Index offenses known to law enforcement. The booklet and the press releases are sent to program participants, as well as thousands of criminal justice agencies and administrators who have requested them.

> **". . . crimes known to the police . . . [are] the keystone of the UCR Program."**

The Present

Although the original UCR Program plan urged the early establishment of State UCR centers whose administrators could more easily require the reporting of UCR data from all law enforcement agencies within the State, this portion of the program faltered until funding from the Law Enforcement Assistance Administration provided acceptable incentives for its adoption. As a result, since 1969, 47 State UCR Programs have become operational and a majority of these States have enacted legislation requiring their law enforcement agencies to collect and report data under the program's guidelines. Today, 23 of the State programs use computer processing of data and these States submit their entire statewide collection of UCR statistics by magnetic tape. In the remaining 24 States, summary data for the entire State is submitted periodically on forms. In the three States where statewide collection efforts have yet to be completed, data are submitted directly to the FBI by individual law enforcement agencies.

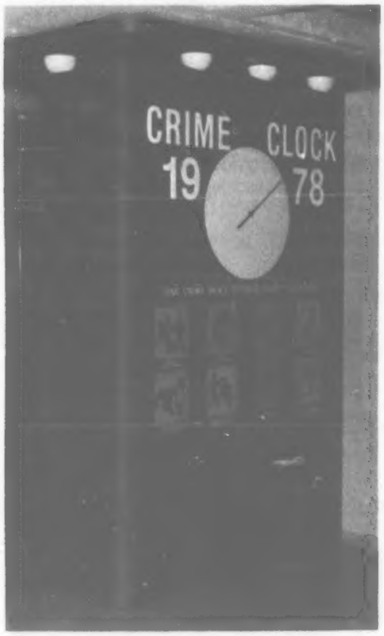
The State programs have not only expanded the coverage of the UCR Program but have enhanced the accuracy of the data collection effort. It is hoped that with the development of statewide UCR Programs in all 50 States, all law enforcement agencies will eventually participate in the program and provide complete, national coverage.

Changes

While the UCR Program has remained strikingly close to its original design, changes have taken place through the years. In almost all cases these changes have resulted from the dictates of practical program experience. In a few instances, changes in crime classifications have disturbed the historical sequence of the data and have prevented the comparison of certain crime counts along the entire length of the program's operations.

Among the more notable program changes were the discontinuance, in 1952, of fingerprint records received at the FBI as a source of arrest data and removal of statutory rape as a Crime Index offense in that same year. In 1958, both larceny of articles worth less than $50 and manslaughter by negligence were also dropped as Crime Index offenses. These changes in the Index did not alter its fundamental character, since the deleted offenses were subcategories of more serious crimes of the same class. Forcible rape, larceny, and nonnegligent manslaughter remained in the Index.

State representatives from Mississippi, the 47th State to initiate a UCR Program, confer with UCR training instructors at FBI Headquarters.



UCR Crime Clock exhibited at FBI Headquarters shows the relative frequency of occurrence of Crime Index offenses.

During the period 1963 through 1975, excluding 1973, "Crime in the United States" included statistical studies concerning certain offenders who had been arrested during the period 1963 through 1969 and another group arrested during the period 1970 through 1975. The purpose of these studies, known as the Careers in Crime Program, was to trace, through fingerprint records, the paths of select offenders through the criminal justice system. The studies, which were last conducted with data from the Computerized Criminal Histories (CCH) project, confirmed what had long been suspected by criminal justice practitioners—that recidivism among offenders was high and that the incidence of recidivism tended to be more frequent among youthful offenders. The Careers in Crime Program was discontinued in 1976, and because of unresolved legal and jurisdictional questions surrounding CCH, it is not anticipated that these studies will be resumed in the near future.

The most recent and perhaps the most significant change in the program since its inception has been the addition of arson as a Crime Index offense. In October 1978, Congress enacted legislation mandating that arson be classified as a Crime Index offense in the UCR Program. This legislation stemmed from a surge in arson offenses in recent years and the resulting clamor by the firefighting and fire insurance communities for additional publicity and law enforcement emphasis to control the spread of this serious crime. Arson has always been regarded as a serious crime in the UCR Program, but due to delays and uncertainties in establishing fires as arsons, fragmented lines of authority in the investigation of the crime, and peculiarities in scoring the offense consistent with other Index crimes, arsons were poorly reported and did not readily lend themselves to the requirements of the Crime Index. With growing efforts toward consolidating and improving investigative procedures concerning arson, together with better reporting of the crime, collection of this offense statistic will appear among the Crime Index offenses published in the future.

Criticism

As with many successful and well-known efforts, the UCR Program is not without its critics. Criticism has ranged from the cynical—such as that which suggests the police cannot be trusted to report crime accurately—to the thought-provoking, which have helped form new insights into the complex problem of data processing. Among all the responsible criticisms of the program, two main contentions emerge that are really expressions of what the program ought to be rather than criticisms of what it is. These are: 1) That the program is an inadequate index for the entire criminal justice system, and 2) not enough can be determined from the program's data base about the crimes reported.

The UCR was, of course, not designed for the entire criminal justice system. It was devised by law enforcement personnel to meet law enforcement needs, and its success in this objective has been due solely to the professional cooperation of law enforcement personnel. If there is to be a comprehensive data network for the entire criminal justice system—and indeed this is an imperative goal—then other segments of the system—prosecutors, the courts, probation and parole, and correctional institutions—

must demonstrate the same commitment, the same discipline, and the same spirit of cooperation as has the law enforcement community in developing the UCR Program. What many proponents of a comprehensive criminal justice data system overlook in their understandable desire to undertake wide-ranging analyses of criminal justice data is the fact that before we can analyze we must have comparable data and before we achieve comparability we must have uniform data. Lack of uniformity is the crux of the problem. To achieve uniformity requires arduous planning and extraordinary sacrifice on the part of participants.

The UCR data received and published by the FBI is summary data which demonstrates crime trends by the volume of crimes reported. Such summary programs at their collection point—which in the case of the UCR Program is FBI Headquarters—have no means by which individual crimes can be sorted out for examination of all aspects of their commission. In recent years State UCR Programs, many of which are crime incident based, have made important inroads in solving the problem of producing definitive data concerning certain offenses or classes of offenses reported in the UCR Program. While these States report UCR data to the FBI in summary fashion, their records base often contains the type of specific information much sought after by many crime researchers. Moreover, as computerized data systems become the rule rather than the exception, the information will become more readily retrievable in a wider range of categories of statistical interest.

Accomplishments

There are many impressive facts and figures that can be cited to document the accomplishments of the UCR Program. For example, cooperating agencies in the program now number more that 15,000, compared with the less than 400 with which the program began. While crime coverage during the program's formative years was limited to a few metropolitan areas, the data now represent 98 percent of the Nation's population.

> **"Cooperation has been the foundation of the program's success. . . ."**

During the 5-decade period of the FBI's association with the UCR Program, an estimated 230 million Crime Index offenses have been tabulated which, for the curious, break down roughly into 600,000 murders, 1 million forcible rapes, 9 million robberies, 11 million aggravated assaults, 60 million burglaries, 130 million larcenies, and 22 million motor vehicle thefts.

Furthermore, the program was the inspiration for the FBI's National Crime Information Center, now in its 13th year of serving as a computerized telecommunications network for law enforcement agencies in this country and abroad.

Of all the program's accomplishments, none can match the 50-year record of cooperation that has consistently characterized participation in the UCR. Cooperation has been the foundation of the program's success and its spirit has grown and prospered over the years. It is for this reason more than any other that the UCR stands alone as the only ongoing uniform data collection program in the criminal justice system from which meaningful assessments of crime trends can be made.

The Future

The UCR Program looks forward to many dynamic improvements in the collection of criminal justice statistics. The most recent decade has seen other aspects of the criminal justice system develop first efforts in the aggregation of statistics. The upcoming decade promises enhancements for a better understanding of the entire phenomena of crime and its ramifications. The need for credible criminal justice statistics becomes more intense as public service agencies experience constrained budgets. The development of meaningful programs to diminish the impact of crime on our society rely more and more on empirical data which identify the seriousness, extent, and nature of criminal activity. For the law enforcement executive, the municipal planner, and the serious student of the crime problem to address responsibly their obligations in the criminal justice arena, valid information must be at their disposal. The UCR Program commits its resources to assisting in these endeavors.

To understand crime we must know the who, what, where, when, and why of its occurrence. The UCR Program has made unmistakable progress in estimating what crimes have occurred, where they have occurred, and when they have been committed. But, a good deal less is known about who exactly has committed these crimes or precisely why they have occurred. To answer these important questions will require more revealing data from other elements of the criminal justice system. **FBI**

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Operations

computers monitor vehicle costs

By COL. JACK B. WALSH

Superintendent
Ohio State Highway Patrol
Columbus, Ohio

Colonel Walsh

"Every time the price of gasoline increases by one cent per gallon, it costs the Ohio State Highway Patrol $30,000 annually. Watching our automotive costs closely is not only desirable, it is mandatory."

—Col. Jack Walsh
Superintendent

Within recent years the Ohio State Highway Patrol has experienced a critical need to monitor rapidly rising vehicle costs. Because of the drastic increase in fleet operating expenses, especially fuel costs, it became imperative that management personnel know exactly which maintenance areas required the most funds. A functional, timely, and accurate system of vehicle cost recordkeeping would provide the information necessary to identify inefficient vehicles in time to take corrective measures.

If facts and figures could be compiled on individual vehicles, those assigned to certain geographical areas, a specific category of vehicles, or the total fleet, management could identify problem vehicles and trends in defective parts and separate costs into areas of consumable items, such as fuel, tires, air filters, and others. This information would aid in making future decisions on choice of vehicles and budget preparation and allocation.

A committee was formed to study the problem and devise a solution. They were to develop a system which would record and categorize all vehicle costs in an efficient and accessible form. The recording system would have to be easy to operate, comprehensive in scope of stored information, and flexible to accommodate variable data needs.

System flexibility becomes important when considering the decentralized highway patrol operations in Ohio. There are 57 posts in the State, each having a fleet of 7 to 18 vehicles. The posts are distributed among 10 districts into which the State is divided, and each district is assigned approximately 90 vehicles, amounting to a statewide total of 950 cars, trucks, vans, tractors, and lawnmowers.

System Implementation

After nearly 2 years of planning, the division designed and implemented a computerized automotive cost records system which allows for the direct entry of all vehicle costs into the computer by the terminal operator. This one-step daily process of placing all cost records into computer storage enables management personnel to retrieve current cost information on individual vehicles or fleet totals whenever necessary.

This system is considered to be a revolutionary advancement in our recordkeeping procedures, as well as a valuable decisionmaking and troubleshooting tool. It keeps track of all costs incurred on division-owned vehicles, including patrol cars, vehicles used for communications, vehicle inspection, driver licensing, and other specified areas, division airplanes and helicopters, tractors, and lawnmowers.

Upon request, the computer terminal operator can retrieve the cost history of a vehicle on a month-to-date and year-to-date basis, including year and make of vehicle, cost-per-mile to operate and mileage-per-gallon figure, hours of downtime, cost of routine maintenance and/or repair, miles traveled by month, year, and total registered on the odometer, gallons of gasoline used and cost, and a complete listing of parts replaced and cost with accompanying labor charges. This information is available for individual vehicles, fleet figures at post and district levels, or State totals of all division-owned vehicles.

Limitations of the Old System

The previous vehicle cost recording system grouped costs into general categories, but provided no individual car information. It gave a total parts cost and total labor charge figure with no breakdown as to specific part, cost of installation, or whether it was routine maintenance or wreck repair.

Another problem with the previous system was that it required too much of an officer's time—time which could be better spent on enforcement duties. Record books were carried in each vehicle so that the officer could enter costs incurred while using the car. All mathematical calculations were done by the officer, including tax, and the records were given to a supervisor. Additional time was needed for the supervisor to check all the figures before the monthly records were mailed to general headquarters, where thousands of these sheets had to be keypunched. Finally, the keypunched information was sent to the data center to be processed into monthly reports. The whole process took a minimum of 2 weeks. When the monthly report was finally compiled, it not only was inefficient in terms of the information provided but also out of date.

Development of Computerized Cost Records

After considerable study by the committee, a list of the 134 most used vehicle replacement parts and labor costs was compiled. This list was used to build the computer program so that all division locations would have a uniform way to enter vehicle repair costs.

Vehicle cost records are kept current on a daily basis. Each day the service record of every vehicle assigned to a particular location is entered into the computer. This information includes any gasoline, oil, tires, air filters, or repair work done on a specific vehicle on that day. Just as daily records are available at the close of any day, monthly vehicle costs are available on the first day following the month—there is no time lag as with the old system.

Since the prices of these items are updated by personnel at the division's general headquarters, field personnel are not concerned with computing amounts. The computer automatically works with the latest prices entered into the system.

The computer also keeps track of the gasoline used from storage tanks installed at field locations and automatically notifies personnel when it is time to refill the tanks.

Multilevel Management Tool

The computerized cost reporting system provides an excellent management tool to all levels of supervision. In seconds a post commander can see how many miles are being logged by officers in his command, check expenses, compare miles-per-gallon efficiency on vehicles assigned to the post, and be informed of the cost-per-mile of each vehicle.

In turn, the district commander can objectively look at the vehicle cost records of the six posts within his jurisdiction and begin to see a comprehensive picture of how the vehicles are being used and which vehicles are best suited to particular geographical areas.

At the administrative level, personnel can tell exactly how much is being spent on general repair of all vehicles of a certain make, model, and year during a specific month. This information, compared with comparable figures on other vehicle models, allows management to spot trends in equipment defects, as well as the gas efficiency of all division-owned vehicles.

It is possible to compare exact costs incurred by the division to operate two different car makes of the same age, or the same make of car at 10,000 miles, 20,000 miles, or whatever factor is selected for comparison. If a certain mechanism fails with regularity, the computer is programed to call attention to the problem so that it can be resolved efficiently.

A Time and Money Saver

Despite its very recent implementation, March 1, 1980, the Ohio State Highway Patrol's new system of computerized automotive cost reporting is already reflecting great savings in time and money.

Since the division had an existing computer system and a staff of programers, there were no additional costs in this area. The programers designed a program to fit the needs outlined by the planning committee.

Since field personnel were already accustomed to using computer terminals, the training was minimal. Also, no new equipment was needed to put the system into operation.

The amount of paperwork and the number of people needed to maintain the previous automotive cost recording system were greatly reduced—a savings in time and money. Also the new system allows uniformed personnel much more time for enforcement duty.

Of course the main advantage to computerized cost recording is the amount and type of information which is instantly available to management personnel. These timely, accurate facts aid in making rapid, knowledgeable decisions in today's constantly changing automotive market.

Simply stated, the computerized direct entry system provides more information in less time in a more usable form. While we cannot control the rising price of gasoline and other automotive costs, we can monitor costs and make appropriate cuts where necessary—all within the framework of maintaining service to Ohio's motoring public. **FBI**

AGE VS. FAT

Effect on Physical Performance of Police Officers

By PAUL O. DAVIS, Ph. D.
and ALBERT R. STARCK, M.A.
Institute of Human Performance
Fairfax, Va.

Law enforcement administrators have traditionally and typically advocated that police officers should have a youthful physical profile. The prevailing attitude is that older individuals are not able to perform the required physical duties of the job. There appears universal acceptance of the requirement that recruits possess a high level of physical fitness. Maximum hiring ages have been implemented, apparently with the feeling that youth is a prerequisite for excellence in health and fitness. However, there are a number of older individuals who have maintained their physical abilities and possess equal, and in some cases superior, physical profiles to much younger persons. It is believed that individuals who exceed maximum hiring ages should be allowed to demonstrate their level of fitness rather than being judged unfit based on an arbitrary age cutoff.

Dr. Davis

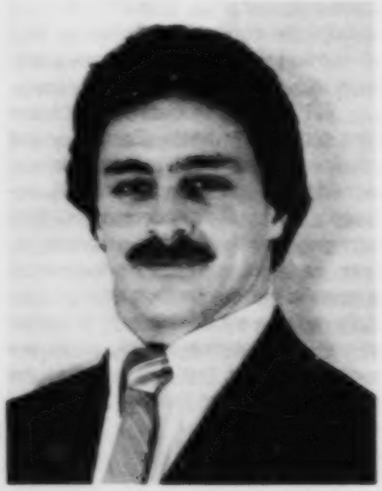
To establish age as a bonafide occupational qualification and use age cutoffs to exclude older applicants, the following criteria must be met:

1) It must be demonstrated that virtually all individuals who exceed the cutoff age are incapable of performing the physical job requirements;

2) Tests do not exist to distinguish effectively between individuals who can and cannot perform the job; or

3) The cost of developing such tests are prohibitively expensive.

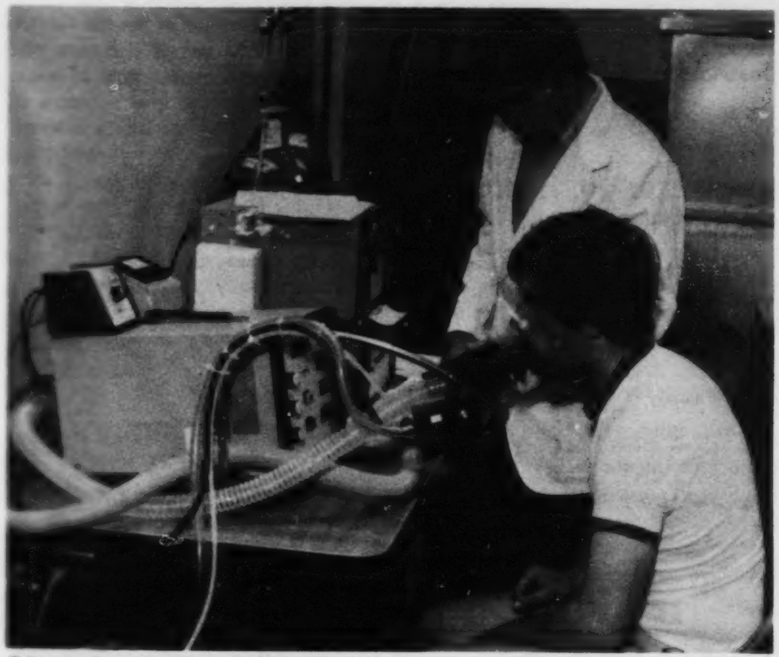
In light of our research findings, none of these conditions exists. Inexpensive tests are available which are quite effective in establishing an individual's ability to perform various physical tasks. The question that is more difficult to answer is whether the aging process automatically results in declining physical fitness.



Mr. Starck

In an effort to answer this question, we evaluated the current fitness levels of 671 male and female police officers in the Washington, D.C., metropolitan area. Each officer underwent a laboratory evaluation designed to determine such fitness attributes as aerobic capacity, muscular strength and endurance, flexibility, and percentage of body fat. Simple tests such as pushups, standing broad jump, and a measure of flexibility (figure 1) were employed, along with more elaborate tests requiring laboratory equipment. Aerobic capacity, or one's ability to endure rigorous activity, was measured on a treadmill. The longer one remained on the treadmill, the greater his aerobic capacity. This test was also used to detect heart and blood pressure abnormalities. Body composition (percent body fat) was determined by measuring each subject's buoyancy when totally submerged in a tank of water. The more tendency he had to float, the higher the percentage of fat. An added feature of this test was that each subject received a recommended optimal body weight. Muscular strength was determined by measuring both grip strength and shoulder strength with force measuring devices. These measures have proved to be quite reliable in predicting overall body strength.

Table 1 lists the average test values for the police officers studied. The 19.8-percent body fat figure is the typical average value at which we previously arrived when studying other public safety workers. It is approximately the same value as normal sedentary Americans of similar ages. However, the normal sedentary person is not expected to perform dangerous law enforcement tasks that place their lives and the lives of others in jeopardy. Police officers should possess an average percentage of body fat closer to 16 percent.



Pulmonary function apparatus measures residual volume and forced expiratory volume in one second.

Handgrip (dynamometer) measures grip strength.

Table 1

Descriptive and Normative Data

Variable	Mean
Age (years)	33.3
Weight (lbs)	185.5
Fat weight (lbs)	37.6
Percent fat (%)	19.8
Height (in.)	70.8
Pushups	29.3
Situps	40.6
Hip Flexibility (inches)	12.54
Long Jump (inches)	80.75
Total strength score (kg)	224.2
Treadmill time (min.)	10.6

Table 2

Correlation Coefficients: Age and Percent Fat vs. Selected Test Items

Variable	Age	Fat
Pushups	−.360	−.499
Situps	−.460	−.487
Hip flexibility	−.137	−.200
Strength	.008	−.087
Jump	−.404	−.461
Treadmill	−.430	−.526

The mean result of the hip flexibility test of 12.54 inches indicates that the average officer was able to reach 1/2 inch beyond the toes. A score of 12.0 would indicate the ability to touch the toes, and each inch greater than 12 means reaching an additional inch beyond the toes. Our results show that about one-half of the officers could not touch their toes. Poor flexibility in this area of the body has been linked to a high incidence of low back problems. Disability and injury claims of any municipality will show that back injuries among police officers rank extremely high in terms of total medical payments. All other test result averages may be considered typical for police officers in general.

> **"The requirement for possessing and maintaining good health and fitness should not only be levied on recruits but on every officer involved in police work."**

The data were next analyzed to see if any relationships could be found between age and any of the test results. We found that similar relationships existed between age and certain tests (variables) and also between percent fat and the same variables. These relationships, listed in table 2, are expressed as correlation coefficients. A relationship between two variables can be expressed mathematically as a value from −1.0 to +1.0. A value of 0.0 means that there is no relationship between the variables. Values progressing from zero to +1.0 indicate increasingly stronger relationships between two variables. One can better predict that as one variable increases, the other variable *increases* more or less equally. Values from zero and progressing to −1.0 indicate increasingly stronger relationships, so that as one variable increases, the other *decreases* more or less equally. For example, the relationship between rainfall and grass height would lie somewhere between zero and +1.0—the more rain, the higher the grass. The relationship between cloudiness and sunshine would lie between zero and −1.0—as clouds increase, sunshine decreases.

Table 2 indicates two sets of relationships. First, as age increases, performance decreases on all tests except strength. This is indicated by the negative numbers. Second, as percent fat increases, performance decreases. Notice that the numbers in both columns are very similar, which shows that there may be a strong relationship between the effects that both age and fat have on performance. In fact, it may be possible to show that what may be considered an aging effect may actually be an effect due to increased body fat.

In table 3, we have listed a number of test items and have divided the police officer population into six age groups. Notice that as age increases among the groups, the performance and body weight/fat data become poorer, certainly not an unexpected finding. The gradual increase in weight may be explained by increased amounts of body fat. The lean weight (total weight minus fat weight) remains relatively constant across the age group. It is the fat weight component that increases, which is the reason for the increasingly higher percent fat figures. Insurance height/weight charts allow an individual to carry more body fat with increased age, but from a physiological viewpoint, it is unnecessary and creates an unhealthy situation.

In adults, the waist girth is sensitive to changes in body fat. Table 3 shows a waist girth increase of nearly 5 inches over the six age groups. This is attributable to gains in fat weight. Our laboratory findings have clearly shown the inadvisability of using height/weight charts for determining appropriate body weight. A more sensible approach would be the application of available body weight and waist girth charts.

The decrease in performance of the other fitness items listed in table 3 corresponds with the increased amounts of body fat as the groups advance in age. This was mathematically demonstrated in table 2 with the negative correlation coefficients, i.e., as age and fat increase, performance decreases.

To answer the initial question of whether aging automatically results in decreased performance, and to investigate the degree of interaction between age and body fat on declining performance, we used a statistical technique called analysis of covariance. This technique allowed us to look at the effect one variable had on another without the confounding effect of a third variable. For instance, it is known that muscular endurance will have an impact on one's ability to perform activities such as situps. It is also known that excessive body fat has a harmful

Body composition is determined by measuring an officer's buoyancy when he is totally submerged in a tank of water.

An officer undergoes the treadmill test.

Sit and reach test for measuring hip flexibility.

effect on the performance of situps and that older individuals usually perform poorly on this test. Our review of these statistical correlations indicates that body fat may be acting simultaneously with aging in reducing performance of situps, as well as other physical performance tests. Using analysis of covariance allowed us to consider what the age group scores would be if we could assume all groups had the same body fat (no increases with age). Table 4 contains the age group means for several important test items previously listed in table 3. These averages, called "adjusted means," have been statistically adjusted based on all age groups maintaining a constant 14.19-percent body fat equal to the youngest age group. Notice that for weight and waist girth, the scores for all age groups remained virtually identical. The performance of pushups, situps, and treadmill time show much less decline than on table 3. Not all of the decrease in performance is accounted for by body fat—some is still attributed to other aging effects. The largest measure of loss, however, is due to excessive amounts of body fat.

Figure 1 is a graph of the numbers from tables 3 and 4. The dark areas are the "unadjusted" or actual results, while the light areas represent the "adjusted" mean results. The figure graphically illustrates the improvement in test performance that may be attained by maintaining a lower percentage of body fat. Older individuals who retain youthful levels of body fat, usually less than 16 percent, can generally be expected to perform physically demanding tasks at levels equivalent to much younger persons. This is especially true of tasks requiring movement of the body itself—pushups, situps, jumping, climbing, and running. Strength tests involving little or no body movement usually show no relation to amounts of body fat. Table 2 shows virtually no relationship between strength and age (.008) or percent fat (.087).

Table 3

Unadjusted Means for Selected Test Items

Variables	<24	25 to 29	30 to 34	35 to 39	40 to 45	>45
Weight (lbs)	171.38	181.22	186.40	187.43	191.69	191.92
Lean weight (lbs)	146.55	147.92	148.38	147.68	147.35	145.34
Fat weight (lbs)	24.77	33.25	37.97	39.70	44.26	46.58
Waist girth (in.)	33.01	34.56	35.87	36.38	37.51	37.91
Percent fat	14.19	17.95	20.04	20.72	22.727	23.94
Pushups	36.25	34.96	29.89	25.8	21.87	19.97
Situps	49.13	47.61	42.26	35.81	29.86	24.27
Hip flex (in.)	13.42	12.77	12.70	12.62	11.64	10.72
Long jump (in.)	89.58	83.16	82.38	77.96	74.74	72.03
Strength (kgs)	215.779	223.21	225.96	224.295	223.219	217.69
Time on treadmill	11.96	11.26	10.78	9.926	9.643	8.95

Table 4

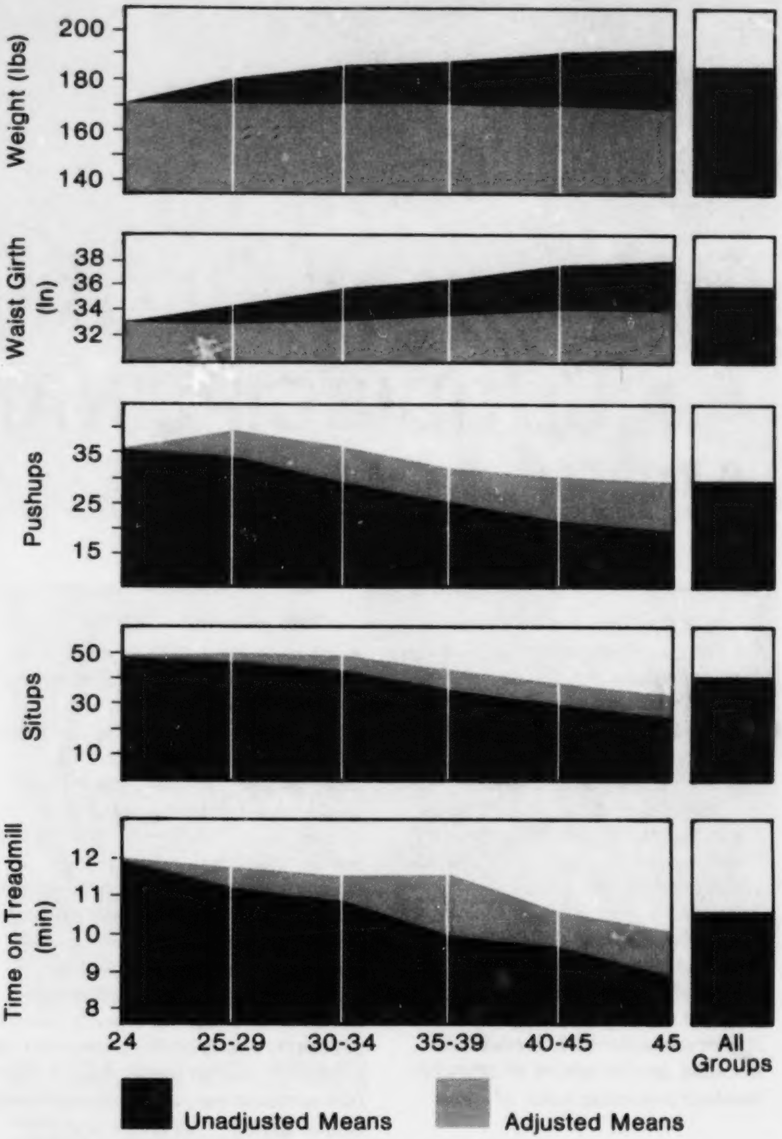
Adjusted Means for Selected Test Items

Variable	<24	25 to 29	30 to 44	35 to 39	40 to 45	>45
Weight (lbs)	171.38	172.7	173.2	172.5	172.4	169.9
Waist girth (in.)	33.01	33.04	33.50	33.71	34.12	34.00
Pushups	36.25	38.62	35.58	32.20	30.17	29.40
Situps	49.13	50.43	48.20	42.49	38.53	34.17
Treadmill time (min.)	11.96	11.67	11.46	11.54	10.63	10.1

Age cutoff standards, when used as a job selection criterion, may be discriminatory and unreliable. In fact, many of the physically fit, older officers we tested demonstrated much better health and fitness profiles than the out-of-shape younger officers. The only judicious method of determining who is physically qualified for police work is to test physically applicants and incumbents. The requirement for possessing and maintaining good health and fitness should not only be levied on recruits but on every officer involved in police work. Those officers who possess high aerobic capacity, low body fat, and good muscular fitness have reduced heart disease and low back injury risk factors. All law enforcement personnel, regardless of age, should be physically fit. The benefits accrue immediately, not just in on-the-job performance but in other aspects of life as well. **FBI**

Figure 1

Age Group Comparison of Adjusted and Unadjusted Mean Scores



Offender Profiles

A MULTIDISCIPLINARY APPROACH

EDITOR'S NOTE: In recent months, the FBI Law Enforcement Bulletin has featured several articles on the application of psychological profiles as an investigative technique in selected criminal cases. The use of psychological criminal analysis is the product of a pilot project initiated by the FBI in 1978. This initial project, aimed at formulating criminal offender profiles through investigative interviews with incarcerated felons, led to the development of an ongoing systematic study—The Criminal Personality Interview Program. This program is designed to identify the salient characteristics, motivations, attitudes, and behaviors of offenders involved in specific types of crime.

Two members of the FBI Academy's Behavioral Science Unit, Special Agents Robert K. Ressler and John E. Douglas, and two internationally recognized authorities in the field of sexual assault, Dr. A. Nicholas Groth and Dr. Ann Wolbert Burgess, comprise the research team for this project. Dr. Groth is Director of the Sex Offender Program for the Connecticut Department of Correction and is a clinical psychologist who has worked extensively with convicted sexual offenders. Dr. Burgess is Professor and Director of Nursing Research at Boston University School of Nursing and is a clinical specialist in psychiatric mental health nursing who has worked extensively with victims of sexual assault. This article is a joint effort of members of this research team.

The psychology of criminal behavior, its patterns, dynamics, and characteristics, is an inadequately addressed area of research. It is difficult to enlist the cooperation of an offender prior to trial, since open disclosure could serve to incriminate him. Following conviction, the offender's participation in a psychological evaluation is geared toward the desired outcome of his disposition hearing or pending appeals. After his incarceration, the offender generally becomes inaccessible to behavioral scientists. For the most part, attempts to research criminal behavior have been confined to individual case reporting, which is subject to an inability to differentiate the relevant from the irrelevant, and to a large-scale statistical analysis of offense data retrieved from police records, in which individual differences are treated as error. Therefore, it was believed that a systematic study of incarcerated offenders whose appeals had been exhausted, combined with a review of all relevant documents and pertinent case records, direct observations, and firsthand investigative-clinical interviews with the subject, might yield important insights into the psychological nature of criminal behavior.

The question remained as to whether incarcerated offenders would cooperate in such research. In order to determine the feasibility of the intended study, a pilot project was undertaken. Crimes in which the FBI either has primary jurisdiction or has traditionally assisted local agencies by providing technical assistance and special expertise, such as hostage/terrorism, skyjacking, extortion/kidnaping, assassination, and mass/multiple murder, were targeted for study. Guidelines were formulated in conjunction with the Legal Instruction Unit of the FBI Academy.

Eight convicted offenders were then approached and asked if they would be willing to be interviewed about their crimes. They were long-term incarcerated felons lodged in various State and Federal penitentiaries and were selected for the gravity of their violent crimes. The results were very encouraging. Based on this response, plans were developed for an

During the 1979 Fiesta Parade in San Antonio, Tex., a sniper, who was a former mental patient, killed 2 persons and injured 51 others, including 13 children and 6 policemen. Photos depict shooting scene and arsenal used by the sniper. Insight into the psychological behavior of persons involved in such crimes is the overall goal of this research program.

Dr. Burgess

Dr. Groth

Special Agent Ressler

extended, ongoing systematic study of convicted offenders in order to better understand the patterns and dynamics of criminal behavior. Sexual homicide was selected as the initial area of primary focus and concentration because it is a lethal type of crime that attracts a great deal of public attention.

Background of FBI Profiling

For the past few years, efforts at developing psychological profiles of suspects for individual cases of sexual assault/homicide have been undertaken by members of the Behavioral Science Unit.[1] These cases were referred to the unit by local police departments. From the available evidence and information, unit members developed a psychological composite of the suspect. The approach is one of brainstorming, intuition, and educated guesswork. The product was the result of years of accumulated investigative experience in the field and familiarity with a large number of cases. No formal data bank, however, has been developed against which new cases can systematically be compared. Also, there is little or no followup once an offender has been successfully apprehended and convicted. Consequently, there is very little subsequent input of information which would serve to sharpen and refine the existing body of knowledge.

Given the opportunity to interview identified offenders and realizing the need to develop a protocol to insure systematic retrieval of pertinent data, the Training Division engaged the services of Dr. A. Nicholas Groth and Dr. Ann Wolbert Burgess, two experts in the field of sexual assault who had been conducting specialized police schools on rape and child molestation for law enforcement agents at the FBI Academy. This professional affiliation provided a multidisciplinary approach to the study of the sex murderer, combining contributions from both law enforcement and the behavioral sciences.

From a review of the pertinent literature and from the direct, firsthand field experience and prior work of the researchers, this team proceeded to develop a data schedule for investigative inquiry and offender assessment. This instrument provided not only guidelines for interviewing subjects but also a system of recording and coding relevant data to permit computer analysis and retrieval. This protocol (which continues to undergo revision and refinement) is divided into five sections: (1) Physical characteristics of the offender, (2) background development, (3) offense data, (4) victim data, and (5) crime scene data. It encompasses the offender's physical description, medical/psychiatric history, early home life and upbringing, schooling, military service, occupation/vocational history, sexual development and marital history, recreational interests, criminal history, the characteristics of his offense, modus operandi, victim selection, and the scene of his crime.

Once the assessment schedule had been designed, it was administered to three groups of sexual offenders—sex murderers, rapists and child molesters, and sex offenders confined to a mental health facility. During the first year (1979) of the study, interviews with 26 men who were convicted of a

Special Agent Douglas

Edmund E. Kemper, a mass murderer, is interviewed by SA Douglas.

sex-related homicide and were incarcerated in various institutions across the country were completed. The second group—rapists and child molesters incarcerated in a maximum security prison—consisted of approximately 125 adult male offenders who were administered the interview schedule. These subjects were equally divided between those who had sexually assaulted adults and those who had sexually assaulted children. Sex offenders committed to a security treatment (mental health) facility following conviction but prior to disposition comprised the third group. Approximately 100 men were interviewed, again equally divided between rapists and child molesters.

Computer programs were then written to process the data. It is anticipated that as this body of data accumulates, it will provide information about a number of issues pertaining to the sexual offender.

Interestingly, institution officials have been supportive of the research investigation efforts, and the offenders themselves have been very receptive to our solicitation for their help and participation in this study. Although a few have denied or minimized their culpability, the majority have provided information consistent with the known facts of the case.

What prompts convicted offenders to cooperate with law enforcement agents? A variety of reasons exist. For those troubled by what they have done, cooperation may be an effort to gain some perspective and understanding of their behavior or an effort to compensate and make some type of restitution. Others, especially if they feel forgotten or ignored, may respond to the fact that someone is paying attention and showing some interest in them. A selected number of multiple murderers appear to be fascinated with law enforcement, as evidenced by their attempts to become identified with the profession, i.e., posing as law enforcement officers, holding positions such as security guards or auxiliary police, etc. These offenders welcome an opportunity to again associate themselves with investigative efforts. Some may expect that cooperation will result in favors or benefits; others may feel

Selected inmates of the Oregon State Penitentiary participated in the research program.

they have nothing to lose, since all their appeals have been exhausted and no realistic hope for parole or pardon exists. Finally, others may participate in the study because it provides an opportunity to dwell on and recapture the fantasies, memories, and accompanying feelings of the original offense. Whatever their reasons, noble or selfish, healthy or pathological, each in his own way contributes something toward understanding the variety and complexity of this category of crime.

Statistical Procedure

The reliability and the validity of the data retrieved from the study of these offenders will ultimately be tested by the accuracy with which predoctrines (offender profiles) derived from this data pool are fulfilled. It is from these data that various types of offender profiles are beginning to emerge. Although no two offenders are exactly alike, and there is a wide range of individual differences found among offenders who commit similar offenses, they also share some similarities or common traits. It will be both these important differences and the important similarities that serve to differentiate and identify different kinds or specific types of offenders within the same offense category.

Goals and Purposes of Program

This criminal personality research program is designed to contribute to advances in the study of sexual homicide—a subject about which little dependable information is currently available—by establishing a national data bank from which reliable information can be retrieved. From the data derived from this research, offender profiles will be developed based on identifiable behaviors, traits, and characteristics. The profiles, in turn, will aid local law enforcement agencies in the investigation of the crime and the identification and apprehension of offenders. In addition, such profiles and related information will serve to improve interrogation techniques and interviewing skills and to identify those techniques which will be most productive with each type of offender.

> **". . . an extended, ongoing systematic study of convicted offenders [was initiated] in order to better understand the patterns and dynamics of criminal behavior"**

Knowledge gleaned from this research will have important implications for crime prevention by identifying important biopsychosocial factors of an offender. It will assist by attempting to provide answers to such questions as:

1) What leads a person to become a sexual offender and what are the early warning signals?

2) What serves to encourage or to inhibit the commission of his offense?

3) What types of response or coping strategies by an intended victim are successful with what type of sexual offender in avoiding victimization?

4) What are the implications for his dangerousness, prognosis, disposition, and mode of treatment?

Current emphasis is on the rape-murderer, since the Training Division receives annually close to 100 unsolved, sex-related homicides for review and analysis. This research program is envisioned as ultimately expanding to encompass a broader variety of felony crimes to include hostagetaking and techniques to improve hostage negotiation. A further benefit will be the improvement of techniques of interviewing, interrogation, and informant targeting in criminal and espionage matters. The present study, which addresses sexual assault, is unique in that it represents the combined approaches of law enforcement/criminal justice and behavioral science/mental health professionals, as well as active participation and direct contribution from convicted felons, to combat this major type of serious crime. **FBI**

Footnote

[1] Richard L. Ault, Jr. and James T. Reese. "A Psychological Assessment of Crime: Profiling." *FBI Law Enforcement Bulletin*, vol. 49, No. 3, March 1980, pp. 22-25.

EXICUTE

A System for Police Training

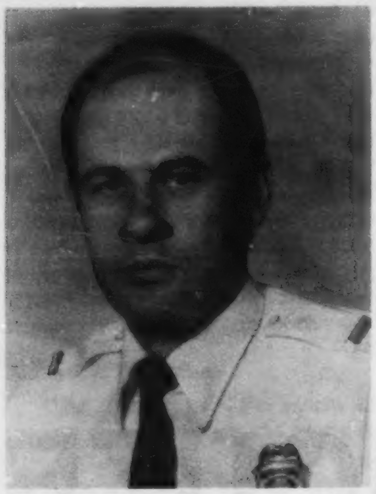
By LT. RON BERMAN

U.S. Capitol Police
Washington, D.C.

An ideal police training system can only exist in an ideal police organization. The quality of training will be enhanced or hampered by the quality of the organization. Consequently, a police organization must be well-defined in terms of structure, job descriptions, and mission (reason for its existence), or its training program will suffer.

EXICUTE is a system designed to identify continually the training needs of the police department and develop a curriculum responding to these needs. It shows the flow from *ex*ternal input to *i*dentification of needs to *cu*rriculum development to actual *t*raining and finally *e*valuation. The importance of this system lies in improving the quality and relevance of the myriad of training programs which have evolved in the last 10 years.

If a police department's training division is viewed as being part of the training system, then other groups and individuals exerting influence from outside the system can be called external input. This input can come from five major sources, the first and foremost being the other sections of the department itself. Departmental input can be either formal or informal. Formal input can be a directive from the chief that 10 additional hours will be added to report writing instruction or the establishment of a school for evidence technicians at the request of the identification section. Informal input is received continually by the training division through conversations between its staff and other members of the department, regardless of rank or section of assignment. Citizens and citizen groups provide a second form of input. Their opinions may be directed to the chief, the academy, or the media, and usually result in more human relations training. The third major source of input comes from the governmental entity that supervises the police department, such as a city council or mayor. The chief's chief wields considerable influence over all facets of the department when he cares to use it. Fortunately, this weight is not often felt in the training division. Articles or editorials by the media, another source of input, may reveal real or imagined weaknesses in a department that can be corrected through training. One area of great concern to the media is the proper use of deadly force. And last, input is provided by other government agencies. This input may be in the nature of written guidelines for interacting with a particular agency or as a result of informal contacts.



Lieutenant Berman

James M. Powell
Chief of Police

The second stage in the EXICUTE system is the continuous identification of training needs. This step is based on two types of activities—task analysis and identification of needs by the training division's staff. Task analysis in a police department depends on a clear organizational structure, good job descriptions, and a statement of the department's mission. With these three elements, it is possible to identify those tasks that are critical for proper job performance through task analysis. While the task analysis could be performed by the training division, a consultant or the research and planning section of the department is usually called upon for the assignment.

The training staff identifies training needs by sifting through or collating all external input, as well as through their own observations based on random or systematic reviews of activities within the department. For instance, an increase in the number of on-duty injuries and a decrease in the percentage of arrests leading to convictions may indicate training needs that must be filled. In addition, recent developments in the criminal justice system, such as court decisions, may lead to new areas of training.

Both task analysis and staff identification of training needs must be continuous. Yet, because of the time and cost involved, task analysis cannot be performed every 6 months, only when it becomes out of date. However, the training staff will be able to identify new training requirements continually, depending on the number of noninstructional hours in their schedules.

After training needs are identified, curriculum development begins. Since not all training needs can be addressed at the same time because of time and staff limitations, the most important ones to be addressed must be selected, based on the priorities of the organization. Each area must then be converted into a rough block of instruction, which is accomplished by grouping training requirements logically under a single subject heading.

Once selected, the subjects must be incorporated into the two major training curricula of the division—recruit and inservice. While recruit training is a single program, inservice is composed of many different facets. Inservice training can include executive development, supervisory and management training, specialized inhouse training, specialized outside schools, rollcall training, and continuation training. It is also true that different types of inservice training have varying degrees of importance to the organization. Space, staff, and budget limitations prevent many departments from doing as much inservice training as they would like. Thus, some courses must be placed in programs that are functioning, even if they would fit more logically in programs that are presently nonexistent. For example, review of the laws of search and seizure may be placed in a supervisor's management class, because there is no other inservice class for supervisors during the year.

The next stages of curriculum development follow a standard format:

- —Objectives written for each block of instruction,
- —Criteria developed for each instructional objective,
- —Methods and materials selected,
- —Lesson plans written based on instructional objectives, and
- —Instructional aides and resources obtained.

This curriculum development process should be followed for each new training area. Furthermore, each of these steps should be reviewed periodically to ensure that changes have not occurred which warrant a change in any or all the categories for a particular subject.

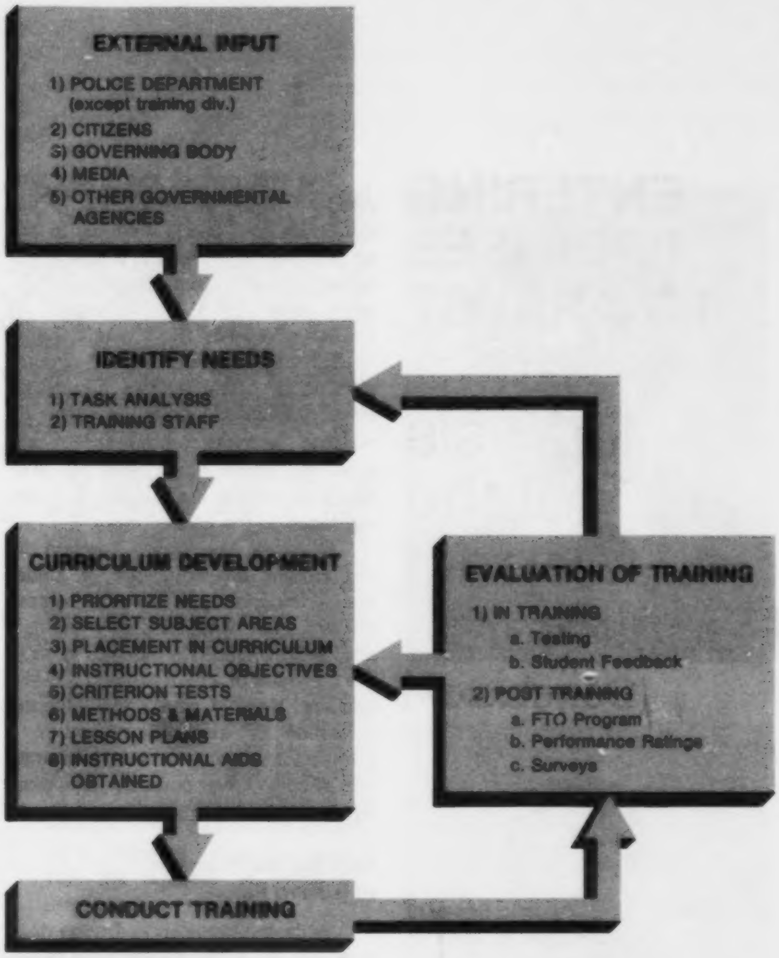
Conducting the training is the next stage in the system. The great care taken to select the courses and develop lesson plans will all be for nought if the material is not properly presented to the students. This requires, first, that there are facilities conducive to the learning process. Second, the staff must be competent and dedicated to the concept of quality instruction and a quality training program. And last, there has to be an emphasis on the importance of the individual student. The training staff must be willing and able to respond to the unique learning needs of each student.

Once the training is conducted, the final stage in the system, evaluation, is begun. Evaluation provides a check on the quality of training, the validity of instructional objectives, and the original determination of needs. Thus, it will afford input to the training division at the needs identification and curriculum development stages. The evaluation process takes place while the students are in training and after their training is completed.

Evaluations are conducted through testing and student feedback. Testing, based on criteria previously developed, offers feedback on whether the training process is addressing instructional objectives. Student feedback, formalized in critiques usually administered at the conclusion of training, is useful in providing information on the quality of instruction. Student feedback in inservice training will also provide information on the appropriateness of the training needs being addressed.

The evaluation process continues after the students complete training. As rookies, they will be involved as trainees in a field training officer's program; as experienced field training officers, they will also be the trainers. Their success in either role will provide data which will be fed back to the training division. This data will be useful when looking at training needs, curriculum development, and the training process. In addition, performance ratings prepared on all personnel will indicate areas where more training is needed or may identify new training needs. Personnel in the department should also be surveyed in order to ascertain where they feel more or better training is needed.

EXICUTE: A SYSTEM FOR POLICE TRAINING


EXTERNAL INPUT
1) POLICE DEPARTMENT (except training div.)
2) CITIZENS
3) GOVERNING BODY
4) MEDIA
5) OTHER GOVERNMENTAL AGENCIES
IDENTIFY NEEDS
1) TASK ANALYSIS
2) TRAINING STAFF
CURRICULUM DEVELOPMENT
1) PRIORITIZE NEEDS
2) SELECT SUBJECT AREAS
3) PLACEMENT IN CURRICULUM
4) INSTRUCTIONAL OBJECTIVES
5) CRITERION TESTS
6) METHODS & MATERIALS
7) LESSON PLANS
8) INSTRUCTIONAL AIDS OBTAINED
EVALUATION OF TRAINING
1) IN TRAINING
a. Testing
b. Student Feedback
2) POST TRAINING
a. FTO Program
b. Performance Ratings
c. Surveys
CONDUCT TRAINING

The EXICUTE system of training can be applied to any medium-sized police department. Although the system forms a loop, it is open to external input. However, for the system to be most effective, it must have the commitment of a qualified training staff and the total support of the department, from the chief administrator on down through the ranks. **FBI**

ENTERING PREMISES TO ARREST

An Analysis of the Warrant Requirement

(Conclusion)

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

The first part of this article provided an historical perspective of the law concerning police authority to enter premises to arrest and a look at the recent Supreme Court decision in *Payton v. New York* [47] and its impact on law enforcement. The Court ruled in *Payton* that absent exigent circumstances, an arrest warrant is constitutionally required to enter the suspect's dwelling to make an arrest.[48] Moreover, the police must have probable cause to believe the suspect is in his residence at the time of entry.[49]

However, the *Payton* decision did not answer two questions of fundamental importance to law enforcement officers. First, what kind of warrant, if any, is constitutionally required to enter the premises of a third party to arrest a suspect? Second, what constitutes the existence of exigent circumstances justifying a warrantless entry? An analysis of some lower court opinions dealing with those questions is necessary.

Entering the Premises of a Third Party

While the decision in *Payton* dealt only with the authority of police to enter a dwelling in which the suspect resides, logic would suggest that at a minimum, the same constitutional requirements would apply where the police wish to enter the premises of a third party. *Payton* makes it clear that a search warrant is not constitutionally required to enter the suspect's dwelling.[50] However, some courts and legal commentators have argued that absent exigent circumstances, the fourth amendment requires a search warrant to enter the premises of a third party to arrest a suspect.[51] A brief look at the substance of those arguments seems merited.

By way of review, the general rule is that the warrant clause in the fourth amendment requires the police to obtain a search warrant prior to entering a private dwelling, unless circumstances make the warrant process impracticable—thus creating a recognized exception to the warrant requirement. In essence, the Supreme Court in *Payton* approved of an exception to this warrant requirement by deciding that an arrest warrant carries with it implicit authority to enter the suspect's dwelling to make an arrest.[52] However, this implicit authority emanating from the issuance of an arrest warrant may not justify entering the premises of a third party, because the arrest warrant merely indicates a judicial determination that there are sufficient grounds to arrest a particular person and does not normally involve a prior judicial determination that there is probable cause for the police to enter the premises of a third party.

The primary purpose of requiring a search warrant is to secure the right of privacy against arbitrary police entries by taking the decision to enter and search from the police and placing it with a neutral and detached magistrate. The Supreme Court in *Payton* concluded that the privacy interests in the suspect's residence are adequately protected by requiring the police to obtain an arrest warrant.[53] However, arrest warrants, unlike search warrants, do not ordinarily involve any prior judicial finding of the need for police to enter a particular location or the probability that the person to be arrested is located therein, and therefore, may not provide adequate protection against arbitrary invasions of the privacy interests in premises other than where the suspect resides.

Courts directly addressing the question of whether a search warrant is constitutionally required to enter the premises of a third party have reached different conclusions. Several cases illustrate the contrasting views on this issue.

Cases Holding a Search Warrant Is Not Required

Typical of those cases which hold that an arrest warrant affords adequate protection is *United States* v. *Gaultney.*[54] In that case, the U.S. Court of Appeals for the Fifth Circuit concluded that a search warrant is not required to enter premises belonging to a third party where the police have obtained a valid arrest warrant and have probable cause to believe the individual named in the warrant is located on the premises to be entered.[55]

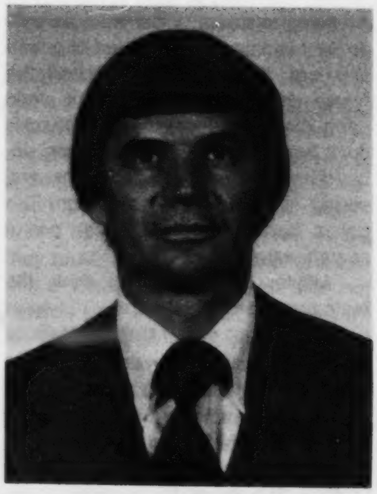
In an earlier case, *United States* v. *McKinney,*[56] the U.S. Court of Appeals for the Sixth Circuit held that the issuance of an arrest warrant is itself an exceptional circumstance which, combined with the mobility of the person and probable cause to believe that person is located on the premises to be entered, justifies entry without a search warrant.[57]

Recently, the Supreme Court of Oregon in the case of *State* v. *Jordan*[58] addressed the issue of whether a police officer may enter a private dwelling to execute an arrest warrant without obtaining a search warrant. While acknowledging that courts and legal commentators are divided over the issue, the court ruled that a search warrant is not constitutionally required.[59] A majority of the court in *Jordan* was persuaded that a search warrant requirement would unduly hamper the police in the performance of their duties and likely result in increased escape attempts.[60] The court wrote:

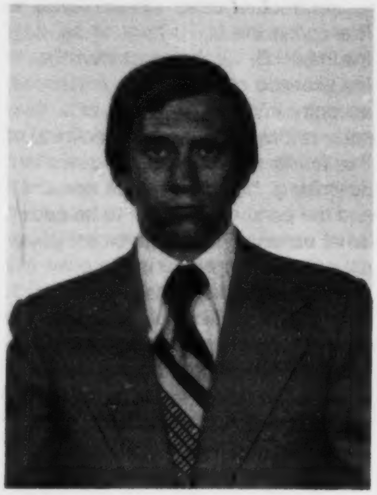
> "The constitutional requirement of reasonableness does not mandate that we handicap police apprehension efforts by requiring officers to wait at the threshold while the suspect hides or flees or by requiring officers to return for a warrant to search each time the suspect flees to hide. . . . We believe that constitutional rights will be protected as long as any arrest on private premises is supported by the judicial authorization of an arrest warrant and the police officer's probable cause to believe that the arrestee is within the premises."[61]

Cases Holding a Search Warrant Is Required

In *United States* v. *Williams,*[62] the U.S. Court of Appeals for the Third Circuit ruled that in the absence of exigent circumstances, a search warrant is required prior to entry into the premises of a third party to make an arrest.[63] In that case, the police had established probable cause to arrest Williams and probable cause to believe he could be located at the residence of an acquaintance. Police initiated a surveillance of that residence, apparently



Special Agent Schofield



Special Agent Davis

"... lower courts are divided over the issue of whether a search warrant is constitutionally required to enter the premises of a third party to make an arrest."

intending to arrest Williams as he exited the building. After a period of several hours, the police approached the house and observed a black male open the front door and then quickly duck back inside. The police then entered the house, arrested Williams, and seized evidence from his person. The police had neither an arrest nor a search warrant.

While acknowledging that the facts presented a close case, the court concluded that exigent circumstances justified the warrantless entry, because the police had reason to believe armed flight was imminent.[64] However, language in the opinion indicates the court would have required a search warrant in the absence of those exigent circumstances.[65]

In another case, *United States* v. *Prescott,*[66] the U.S. Court of Appeals for the Ninth Circuit concluded that in the absence of exigent circumstances, an entry into the premises of a third party to make an arrest is in violation of the fourth amendment, if a warrant describing the place to be searched and the persons or things to be seized is not obtained.[67] Noting that the physical entry of the home is the chief evil against which the wording of the fourth amendment is directed, and that the sanctity of private dwellings has traditionally been afforded the most stringent fourth amendment protection,[68] the court wrote:

> "The sanctity of the home is no less threatened when the object of police entry is the seizure of a person, rather than a thing. A magistrate's disinterested determination that governmental instrusion is warranted is no less desirable when the policeman's quarry is a suspect, rather than a piece of evidence."[69]

A Review

Most people would agree that an arrest itself constitutes a serious intrusion into an individual's privacy interests. In *United States* v. *Watson,*[70] the Supreme Court ruled that the intrusiveness of a public arrest is not enough to mandate the obtaining of a warrant. However, the incremental intrusiveness that results from an arrest being made in a home or area where one has a reasonable expectation of privacy raises additional concerns of constitutional significance. In *Payton*, the Court ruled that an arrest warrant is required to enter the suspect's dwelling, absent exigent circumstances.

The preceding discussion demonstrates that the lower courts are divided over the issue of whether a search warrant is constitutionally required to enter the premises of a third party to make an arrest. In view of the fact the U.S. Supreme Court has not provided a final answer to this important constitutional question, it is imperative that law enforcement officers carefully review the law in their respective jurisdictions.

While the courts are split on the issue of what type of warrant is constitutionally required to enter the premises of a third party, there is general agreement that under special circumstances, a warrantless entry is justified. Therefore, it is also important to examine cases dealing with the existence of special or "exigent circumstances."

What Constitutes Exigent Circumstances

The Court in *Payton* did not directly acknowledge that the presence of "exigent circumstances" would have excused the failure of the New York officers to obtain arrest warrants for Payton and Riddick. Rather, the Court noted the existence of such special circumstances was not an issue, as the New York courts had not relied on any such justification to support their holdings.[71] However, such a notion appears implicit in the *Payton* opinion. The majority in *Payton* was careful to restrict the holding to "routine" felony arrests,[72] and in restating the holding elsewhere in the opinion, it is conditioned by the phrase "absent exigent circumstances. . . ."[73]

The dissenters in *Payton* also clearly perceived the holding of the majority as allowing an exception to the warrant requirement for exigent circumstances. In fact, one of the criticisms of the majority holding leveled by Justice White in his dissent was that "under today's decision whenever the police have made a warrantless home arrest there will be the possibility of endless litigation with respect to the existence of exigent circumstances, whether it was practicable to get a warrant, whether the subject was about to flee, and the like."[74]

An exception to the arrest warrant requirement of *Payton* based on circumstances calling for immediate action would be entirely consistent with the well-established body of fourth amendment law relating to entry and search of private premises for physical evidence.[75] More significantly, the Supreme Court has in prior cases validated warrantless entries into private premises to make arrests when the officers were in "hot pursuit" of a suspect.[76] In *Warden* v. *Hayden,*[77] for example, an armed robbery had just taken place and police officers were told that the suspect had been seen entering a house less than 5 minutes earlier. The officers entered the house without a warrant to search for and arrest the robber. The Supreme Court upheld the entry and search as "reasonable" under the fourth amendment, stating:

> "The Fourth Amendment does not require officers to delay in the course of an investigation if to do so would gravely endanger their lives or the lives of others. Speed here was essential, and only a thorough search of the house for persons and weapons could have insured Hayden was the only man present and that the police had control of all weapons which could have been used against them to effect an escape." [78]

Therefore, it can be predicted with some degree of certainty that whatever the resolution of the question discussed previously (what type of warrant is needed for third party premises), any warrant requirement imposed will recognize an exception for the sort of emergency situations often referred to by courts as "urgent need" or "necessitous" or "exigent" circumstances. Furthermore, there is no reason to believe that "hot pursuit" is the only situation which will justify the exception; rather, it is simply an obvious example of a circumstance making the need for immediate action necessary.

As noted earlier in Part I of this article, prior to *Payton* several Federal and State courts had subscribed to the principle adopted by the Supreme Court in *Payton* that a warrant was necessary to enter a dwelling to make a routine arrest. Often, however, these courts found that the facts of a particular case justified an exception to this general warrant requirement. These decisions offer valuable insight into the factors courts are likely to consider when called upon to determine if the facts support the need for immediate entry without delaying to obtain a warrant.

The *Dorman* Analysis

The opinion of the U.S. court of appeals in *Dorman* v. *United States*[79] is one of the most comprehensive attempts to catalog the factors which bear upon the existence of exigent circumstances. In *Dorman* there was an armed robbery of a clothing store shortly after 6 p.m. on a Friday evening. The robbers bound the employees and customers, and at gunpoint, forced them to lie on the floor of a backroom during the robbery. Harold Dorman, one of the robbers, left some identifying papers in the store which enabled a detective working the case to locate a photograph of him from police department files. At approximately 8:30 p.m., two of the witnesses made a positive identification of Dorman from the photograph. The detective then called a Federal prosecutor to obtain permission to proceed with the arrest and began preparation of an affidavit to accompany the application for an arrest warrant. The prosecutor called the detective back and advised him that no magistrate was available, but that since a felony was involved, an arrest could be made without a warrant. At about 10:20 p.m., the police arrived at Dorman's residence. After being advised by his mother that he wasn't home, but hearing a noise from within, they brushed past the mother and began a search for Dorman. He was not located, but in the course of the search for him, a man's suit similar to one believed to have been taken by Dorman in the robbery was observed in a closet. The suit was later admitted in evidence, over the objection of the defense.

After first recognizing that generally an arrest warrant was required to enter a home to search for a suspect to be arrested, the court then considered whether the facts of the case justified an exception to this requirement. It is this portion of the opinion which is of interest to us at this point and which bears close examination. The court listed the factors bearing on the issue as follows:

> "First, that a grave offense is involved, particularly one that is a crime of violence. Contrariwise the restrictive requirement for a warrant is more likely to be retained, and the need for proceeding without a warrant found lacking, when the offense is what has been sometimes referred to as one of the 'complacent' crimes, like gambling.

"...lower courts are divided over the issue of whether a search warrant is constitutionally required to enter the premises of a third party to make an arrest."

"Second, and obviously interrelated, that the suspect is reasonably believed to be armed. Delay in arrest of an armed felon may well increase danger to the community meanwhile, or to the officers at time of arrest. This consideration bears materially on the justification for a warrantless entry.

"Third, that there exists not merely the minimum of probable cause, that is requisite even when a warrant has been issued, but beyond that a clear showing of probable cause, including 'reasonably trustworthy information,' to believe that the suspect committed the crime involved.

"Fourth, strong reason to believe that the suspect is in the premises being entered.

"Fifth, a likelihood that the suspect will escape if not swiftly apprehended.

"Sixth, the circumstance that the entry, though not consented, is made peaceably. Forcible entry may in some instances be justified. But the fact that entry was not forcible aids in showing reasonableness of police attitude and conduct. The police, by identifying their mission, give the person an opportunity to surrender himself without a struggle and thus to avoid the invasion of privacy involved in entry into the home.

"Another factor to be taken into account, though it works in more than one direction, relates to time of entry—whether it is made at night. On the one hand, as we shall later develop, the late hour may underscore the delay (and perhaps impracticability) of obtaining a warrant, and hence serve to justify proceeding without one. On the other hand, the fact that an entry is made at night raises particular concern over its reasonableness, and may elevate the degree of probable cause required, both as implicating the suspect, and as showing that he is in the place entered." (Citations omitted.)[80]

Although not included in the above list of factors in *Dorman*, the court noted that an analysis of the reasonableness of the officers' conduct would not be complete without considering how long it would have taken for the police to obtain a warrant.

Applying the above factors to the situation presented in *Dorman*, the court found:

1) The crime was one of violence;

2) There was a reasonable belief he was armed;

3) There was a positive identification of Dorman (evidently considered "reasonably trustworthy information" that he had committed the crime);

4) There was no special knowledge that he was home, "but concepts of probable cause and reasonableness prima facie justify looking for a man at home after 10 p.m.";[81]

5) There was some possibility that delay might have allowed an escape—considering the fact that Dorman may have realized that he had left behind papers bearing his name and address; and

6) The entry, though not consented to, was made peacefully and after announcement of purpose. Regarding the time of entry, the court noted that the 4-hour delay was not of the officers' own making, as they were steadily and systematically engaged in the identification and pursuit of the suspects. With reference to the time it would have taken the officers to obtain a warrant, the court noted that due to happenstance, neither the judge regularly scheduled for night duty nor the part-time Federal magistrate was available at 8:30 p.m. when the officers needed the warrant. This unusual circumstance extended the time period ordinarily necessary to obtain a warrant considerably, and in the view of the court, justified proceeding without a warrant.

The *Dorman* court found that the facts and circumstances related above constituted the kind of urgent need or exigent circumstances that justified the entry without a warrant.

The *Dorman* formulation of the exigent circumstances issue has received wide acceptance by both Federal and State courts; often the list of factors has been adopted practically verbatim.[82] It is clearly the leading case on this point of law.

"While the courts are split on . . . what type of warrant is . . . required . . . there is general agreement that under special circumstances a warrantless entry is justified."

Notwithstanding the broad acceptance of the *Dorman* approach, it has occasionally been criticized by courts and legal commentators. Two of these criticisms are worthy of brief consideration, as they make important points regarding the application of the *Dorman* analysis. The first focuses upon the fourth factor in the *Dorman* list—strong reason to believe the suspect is in the premises being entered. At least one Federal appellate court has interpreted this factor as equivalent to "probable cause" to believe the suspect is within the premises to be searched and noted that at least with regard to entry into premises of a third party, this is an *essential precondition* to entry—not simply one factor to be considered among several others.[83] This court was undoubtedly correct in holding that an entry to arrest, with or without a warrant, may only be made when there is reason to believe (probable cause) that the suspect is within the premises. The *Payton* opinion says this directly with regard to entry into the suspect's own premises on the authority of an arrest warrant.[84] Surely at least as stringent a standard must be applied for entry into premises other than those of the suspect. However, this criticism may be based on a more restrictive reading of the term "strong reason to believe" than the *Dorman* court intended. Perhaps the strong "reason to believe" language was intended to require something more than a bare minimum of probable cause for this factor to be considered as a *positive* element in justifying a warrantless entry.[85]

A second criticism of the *Dorman* approach is more fundamental. Some legal commentators have suggested that it is not workable as an everyday guide for police officers, "requiring as it does the making of on-the-spot decisions by a complicated weighing and balancing of a multitude of imprecise factors."[86] It is clearly true that there is little certainty in the outcome of the analysis in a case presenting several but not all of the listed elements. However, most courts seem willing to continue to use the *Dorman* factors at least as guidelines—recognizing that they do not constitute a litmus test or a mathematical formula for determining the existence of exigent circumstances.[87]

With the foregoing in mind, it may be helpful to briefly examine several decisions which have directly confronted the exigent circumstances issue in the context of entry into private premises to arrest. These cases will be divided into two categories—those where exigent circumstances were found to exist and those where they were not.

Exigent Circumstances Present

In *United States* v. *Campbell,*[88] three armed men robbed a bank at 10:30 a.m. One suspect was arrested nearby almost immediately; at about 2 p.m. he confessed and identified the other two robbers. After verifying the addresses of the two suspects and interviewing witnesses to the robbery, an FBI Agent called an assistant U.S. attorney at approximately 4:15 p.m. and obtained authorization for warrantless arrests of the suspects. After a brief delay to organize the raids, the two suspects were arrested at approximately 6 p.m. at their respective apartments. The court found that the arrests were justified by the need for immediate action, noting particularly that the two remaining suspects may well have known or surmised that their confederate had been arrested, and hence, might attempt to flee. Also the court commented favorably on the fact that the Agent had consulted with the prosecutor before arresting, and that the delay was due, in part, to efforts to verify the addresses of the suspects.

An armed bank robbery was committed shortly before noon in *United States* v. *Shye,*[89] and the getaway car was found within a couple of hours. The car was parked within 50 yards of the suspect's apartment. After unsuccessful attempts for about 1 hour to ascertain if anyone was in the apartment (by use of a ruse, attempt to get a key from the landlord), the door suddenly opened and officers observed one of the suspects in the premises. An immediate warrantless entry and arrest was made. The court was critical of the "conscious avoidance" of the warrant procedure during the 1-hour delay, but found that the opening and closing of the door was an intervening and unexpected development giving rise to the need for an immediate entry, thus validating the arrest.

United States v. *Bradley*[90] arose from a warrantless entry and arrest in a narcotics investigation. Undercover agents met the suspects at an apartment at approximately 9:20 p.m. and a deal was agreed upon. The agents returned to the apartment at 11:05 p.m.

"While the courts are split on . . . what type of warrant is . . . required . . . there is general agreement that under special circumstances a warrantless entry is justified."

to complete the transaction. Shortly thereafter, at approximately 11:35 p.m., other agents entered and the arrests were made. The court found that the 11:05 p.m. meeting was not planned until 10:35 p.m. and the identity of some of the suspects and location of the drugs was not known until the 11:05 p.m. meeting. Delay at that point to obtain warrants would have likely permitted the escape of the suspects and destruction of the evidence. Exigent circumstances were found.

Vance v. *North Carolina*[91] offers an interesting twist, as it deals with a situation where the police had obtained an arrest warrant which was later held to be invalid. Two armed men robbed a general store; later the same day Vance was tentatively identified as one of the robbers. The following morning an arrest warrant was issued and in the early afternoon Vance was arrested at his residence. The warrant was later declared invalid, as it was not issued by a neutral and detached party. The court applied the *Dorman* formulation and found a warrantless entry would have been justified by the circumstances, thereby upholding the arrest. The court noted that the fact that a warrant was actually obtained weakened the exigent circumstances argument, as it indicated there was, in fact, time to obtain a warrant. Nevertheless, the court said it would be inappropriate to invalidate an otherwise lawful arrest because the officers were more cautious than required.

No Exigent Circumstances Present

United States v. *Reed*[92] presents a situation where few of the *Dorman* factors were present. Undercover officers had made several purchases of narcotics from the suspects over a 3-month period. Over 2½ months after the last contact, agents went to the suspects' apartment without warrants and arrested them. The court found the warrantless arrests improper, noting there was no recent prior contact and no suggestion of a change in the status of the investigation which made immediate action necessary.

In contrast to *Reed,* a much closer case was presented in *United States* v. *Houle.*[93] There, Bureau of Indian Affairs police received a complaint at approximately 1:50 a.m. from Houle's wife, indicating her husband had threatened to shoot her and was on his way to her father's house where she was staying. The police went to the father's home and removed the wife and her children to the police station at about 2:40 a.m. While at the house, the officers heard two gunshots coming from the direction of the suspect's nearby home. Meanwhile, Houle called the police department warning them to stay away from his house until morning and that he would shoot any officer who came into his yard. The officers decided to delay any action until morning. At 6:30 a.m., they went to the house, without a warrant, to arrest him. Houle was asleep and had a rifle lying on a nearby chair. The officers were able to reach in through a broken window and retrieve the weapon without waking him. They then kicked open the door, entered, and arrested him. The court held that no exigent circumstances were present to excuse the failure to obtain a warrant. The opinion focused on the 4-hour delay between the initial complaint and the arrest and the failure of the officers to attempt to obtain a search or arrest warrant during that time. The court considered the delay as indicating the officers did not believe Houle would attempt to escape or destroy evidence.

In *Commonwealth* v. *Forde,*[94] the court refused to excuse the obtaining of warrants, because the exigency could have been anticipated by the officers. After an extended narcotics investigation, officers arrested four men shortly after they had left an apartment known to be the location for illegal narcotics transactions. The arrest occurred at 8:30 p.m. At approximately 11:30 p.m., an officer overheard one of the arrestees telling his two companions who were about to be admitted to bail that they had "better get right down to the place and tell them what has happened because 'I can't get bailed'." Based upon this, one of the officers attempted to contact a magistrate to obtain warrants, but was unsuccessful in reaching one. At approximately 11:45 p.m., the officers proceeded to the apartment, knocked on the door, and arrested all the occupants. The court held the warrantless entry and arrests illegal. The court acknowledged that the overheard conversation gave the police strong reason to believe the occupants of the apartment would be alerted and hence escape or destroy any evidence. However, the court noted that 3 hours had elapsed between the time of the first arrest and the overheard conversation, during which time the police could have foreseen the serious risk that one of those arrested would be released and warn others. As no explanation was offered by the State for the failure to attempt to obtain a warrant during this time, the court held this was fatal to any claim of exigency.

Summary

Unfortunately, an analysis of cases dealing with the question of exigent circumstances yields few general principles and demonstrates the difficulty of predicting how a court will interpret a particular factual situation.[95]

Accordingly, until the courts provide clearer guidance on this issue, it seems prudent to limit warrantless entries to arrest to those rapidly unfolding situations where delay would pose a substantial risk of escape, loss of evidence, or increased danger of injury.

Footnotes

[47] 63 L.Ed. 2d 639 (1980).

[48] *Id.* at 660–61.

[49] *Id.*

[50] *Id.*

[51] See, *e.g.*, *Wallace* v. *King*, docket no. 78–1399 (4th Cir. 7/1/80); *United States* v. *Williams*, 612 F. 2d 735 (3d Cir. 1979), *cert denied*, 100 S. Ct. 1328 (1980); *United States* v. *Prescott*, 581 F. 2d 1343 (9th Cir. 1978); *State* v. *Jones*, 274 N.W. 2d 273 (Iowa 1979); Rotenberg and Tanzer, Searching for the Person to be Seized, 35 Ohio St. L.J. 56 (1974); Note, The Neglected Fourth Amendment Problem in Arrest Entries, 23 Stan. L. Rev. 995 (1971).

[52] 63 L.Ed. 2d at 661.

[53] *Id.* at 660.

[54] 606 F. 2d 540 (5th Cir. 1979).

[55] *Id.* at 544–545. Other courts reaching a similar result include: *United States* v. *Harper*, 550 F. 2d 610 (10th Cir. 1977), *cert. denied*, 434 U.S. 837 (1977); *United States* v. *Brown*, 467 F. 2d 419 (D.C. Cir. 1972); *State* v. *Platten*, 594 P.2d 201 (Kan. 1979).

[56] 379 F. 2d 259 (6th Cir. 1967).

[57] *Id.* at 262–63.

[58] 605 P.2d 646 (Oregon 1980).

[59] *Id.* at 650.

[60] *Id.* at 651.

[61] *Id.*

[62] 612 F. 2d 735 (3d Cir. 1979).

[63] *Id.* at 738.

[64] *Id.* at 739.

[65] The court wrote: "We believe that the case in support of the conclusion that exigent circumstances existed which justified the warrantless entry of the private residence for the purpose of effectuating the arrest therein is thin, but, nevertheless, sufficient to satisfy the fleeing-suspect criteria. For, while subsequent events indicated that the police officers had sufficient time and opportunity to obtain a *search* warrant. . . ." *Id.* (Emphasis added).

[66] 581 F. 2d 1343 (9th Cir. 1978).

[67] *Id.* at 1350.

[68] *Id.* at 1349.

[69] *Id.*

[70] *United States* v. *Watson*, 423 U.S. 411 (1976).

[71] *Payton*, *supra* note 47, at 648–49.

[72] *Id.* at 644.

[73] *Id.* at 653.

[74] *Id.* at 661. (Justice White, joined by Chief Justice Burger and Justice Rehnquist, dissenting.)

[75] *Ker* v. *California*, 374 U.S. 23 (1963). (Warrantless and unannounced entry and search justified by the need to prevent imminent destruction of evidence); *Michigan* v. *Tyler*, 436 U.S. 499 (1978) (Entry into premises to fight a fire and re-entry to search for the cause of the fire for a reasonable time was justified by continuing emergency).

[76] *Warden* v. *Hayden*, 387 U.S. 294 (1967); *United States* v. *Santana*, 427 U.S. 38 (1976).

[77] *Warden* v. *Hayden*, *supra* note 76.

[78] *Id.* at 298–99.

[79] 435 F. 2d 385 (D.C. Cir. 1970).

[80] *Id.* at 392–93.

[81] *Id.* at 393.

[82] *United States* v. *Reed*, 572 F. 2d 412 (2d Cir. 1978), *cert. denied*, 439 U.S. 913; *United States* v. *Campbell*, 581 F. 2d 22 (2d Cir. 1978); *United States* v. *Williams*, *supra* note 51, (Applied the *Dorman* analysis to determine if search warrant should have been obtained prior to entry into third party premises to execute an arrest warrant); *Vance* v. *North Carolina*, 432 F. 2d 984 (4th Cir. 1970); *United States* v. *Bradley*, 455 F. 2d 1181 (1st Cir. 1972); *United States* v. *Shye*, 492 F. 2d 886 (6th Cir. 1974); *Commonwealth* v. *Forde*, 329 N.E. 2d 717 (Mass. 1975); *United States* v. *Lindsay*, 506 F. 2d 166 (D.C. Cir. 1974); *State* v. *Page*, 277 N.W. 2d 112 (N.D. 1979).

[83] *Fisher* v. *Voltz*, 496 F. 2d 333 (3d Cir. 1974).

[84] *Payton*, *supra* note 47, at 660–61 and 669 n. 13.

[85] *Dorman* v. *United States*, *supra* note 79, at 393.

[86] W. La Fave, Search and Seizure—A Treatise on the Fourth Amendment, Vol. 2, Section 6.1 at 390; Note, 1978 U. Ill. L.F. 655, 678.

[87] *E.g.*, *State* v. *Page*, *supra* note 82, at 118.

[88] *United States* v. *Campbell*, *supra* note 82.

[89] *United States* v. *Shye*, *supra* note 82; see also *United States* v. *Lindsay*, *supra* note 82, for a similar situation.

[90] *United States* v. *Bradley*, *supra* note 82.

[91] *Vance* v. *North Carolina*, *supra* note 82.

[92] *United States* v. *Reed*, *supra* note 82.

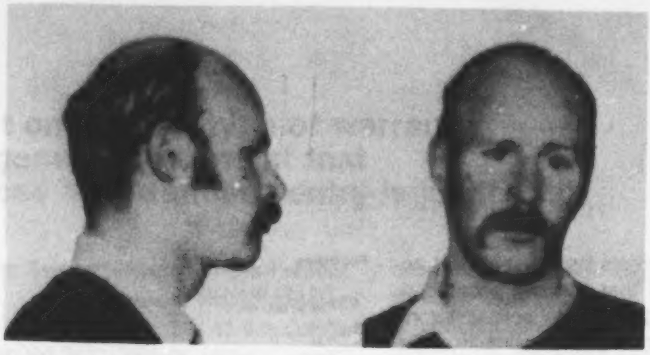
[93] 603 F. 2d 1297 (8th Cir. 1979).

[94] *Commonwealth* v. *Forde*, *supra* note 82.

[95] For example, in both *Houle*, *supra* note 93, and *Forde*, *supra* note 82, the courts thought it was of controlling significance that the officers made no attempt to obtain warrants in the few hours immediately preceding the entries. The court in *Shye*, *supra* note 82, also found that there was a "conecious attempt to avoid" the warrant procedure. Nevertheless, that court allowed an exigency that arose after the delay to excuse the failure to obtain a warrant.

Likewise, similar facts may be interpreted differently by two courts. Note the contrast between how the courts in the *Campbell*, *supra* note 82, and *Houle*, *supra* note 93, cases viewed the delay of a few hours prior to the arrests. The *Campbell* court regarded the delay as reasonable, commenting that it reflected a commendable concern by the officers to insure the address to be entered was correct. On the other hand, in *Houle* the court viewed the delay as indicative of the fact the police were not concerned that the suspect might escape—although it could just as logically been characterized as an attempt to avoid a violent nighttime confrontation.

WANTED BY THE FBI



Photographs taken 1972.

David Elliott Houstle

David Elliott Houstle, also known as Walter Fein, Heinrich Gunther, Kevin J. Hayworth, David Henderson, Dave Hostel, David Hostel, Ralph J. Kueppers, Mike Malone, Peter Mitchell, George R. Morrison, Bret Peterson, Robert A. Rockford, Brian K. Singleton, Raymond Steen, and others.

Wanted for:

Interstate transportation of obscene matter; Interstate transportation in aid of racketeering—Pornography; Conspiracy.

The Crime

Houstle is being sought by the FBI in connection with the production, processing, and distribution of child pornography films.

A Federal warrant was issued for his arrest on May 3, 1978, at Baltimore, Md.

Criminal Record

Houstle has been convicted of grand larceny.

Description

Age	40, born March 5, 1940, Baltimore, Md.
Height	6'.
Weight	180 pounds.
Build	Medium.
Hair	Red (balding).
Eyes	Hazel.
Complexion	Fair.
Race	White.
Nationality	American.
Occupations	Photographer, mail order business.
Remarks	Wears red mustache; reportedly a homosexual; may have suicidal tendencies.
Social Security No. Used	165-32-5447
FBI No.	37 239 E.

Classification Data:

NCIC Classification:
PITT101716PO64091316
Fingerprint Classification:

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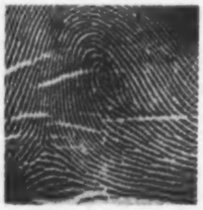
Caution

Houstle has been known to carry a weapon in the past and should be considered armed and dangerous.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.



Right ring fingerprint.

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Not an order form

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Director
Federal Bureau of
Investigation
Washington, D.C. 20535

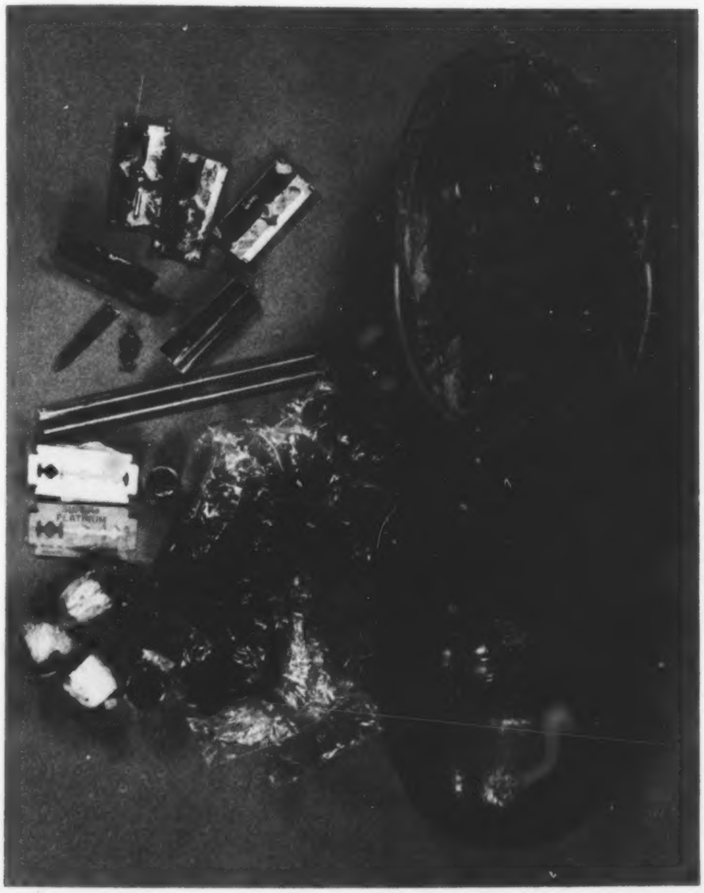
Name		
Title		
Address		
City	State	Zip

……

Shoes Contain Contraband

In the Pierce County jail in Tacoma, Wash., U.S. Marshals discovered the following items in the inner compartments of a prisoner's rubber soled shoes: Two razor blades, five double-edged razor heads, one fingernail clipper file and liner, one handcuff key fabricated from a double-edged razor, and six small metal tubes containing a black paint-like substance.

Alert law enforcement officers undoubtedly thwarted another escape attempt when they discovered this hidden material in the possession of a prisoner who had a record of escapes.



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In the Identification Division of the FBI, this questionable pattern is given the preferred classification of a tented arch referenced to a loop of one ridge count.

49/10

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OCTOBER 1980

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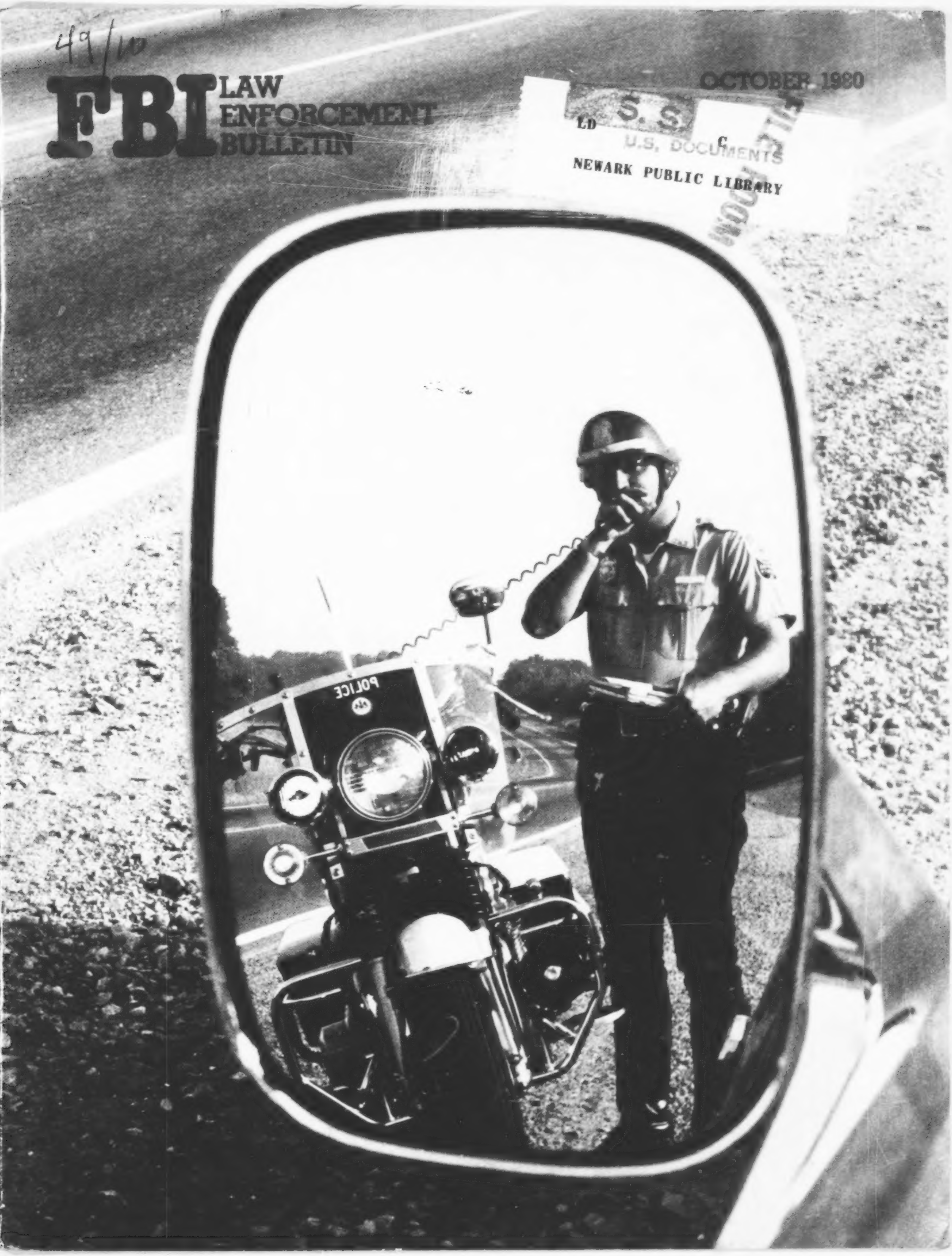

FBI LAW ENFORCEMENT BULLETIN

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THE COVER: This month's cover "reflects" a situation which is familiar to both law enforcement and many of the Nation's motorists. Photo courtesy Officer Andrew Johnson, Fairfax County, Va., Police Department.

Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

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Aloha Means Cooperation

THE NAVY'S LEGAL LIAISON PROGRAM IN HAWAII

By LT. COMDR.
PETER R. WUBBENHORST
Navy Judge Advocate General's Corps
and

JAMES HODGES
Special Agent
Naval Investigative Service
Honolulu, Hawaii

At 2:30 a.m., the highway outside Pearl Harbor Naval Base is nearly deserted. A bus pulls up and discharges a sailor, who somewhat nervously begins to walk down the unlighted sidewalk toward the main gate, approximately 1/2 mile ahead. Suddenly, a car pulls up and three young men get out, surround the sailor, and assault and rob him of his wallet, watch, and jewelry. Fortunately, the sailor is able to obtain the vehicle license number, which is quickly relayed to the Honolulu Police Department. The suspects' vehicle is soon spotted and arrests are made.

During the course of the investigation, Honolulu detectives, working through the Naval Investigative Service, are given access to the sailor, and the case is referred to the prosecutor's office for trial. By the trial date, the sailor has been reassigned to a ship in San Diego; however, through joint cooperation between the Navy and the Honolulu Prosecutor's Office, the sailor is flown to Hawaii at Navy expense and is paid per diem by the prosecutor's office. With direct testimony by the victim, the three suspects are convicted of assault and robbery.

The handling of this case is typical of a new bond existing between the Navy and Honolulu law enforcement agencies. With over 23,000 active duty Navy personnel stationed in Hawaii, and another 22,000 family members and 13,800 civilian employees residing in the State, the military represents a significant part of the total population of 729,000 residing on the Island of Oahu, where the municipal government is comprised of the city and county of Honolulu. This relationship is built on the foundation that people dedicated to effective law enforcement and community support can and should work together to combat crime.

Lieutenant Commander Wubbenhorst

Special Agent Hodges

There hasn't always been a good relationship between the two agencies. In the spring of 1979, tensions between the military community and local groups rose to the boiling point. Beatings of sailors and lunch money robberies of dependent military children received significant media attention and resulted in increased polarization among the military and local communities. Even a local shopping center was placed off limits to all military personnel after dark.

When it looked as if a stalemate would develop between the two communities, many people began to wonder why the problems had been allowed to continue for so long, and more importantly, why existing lines of communication were not working, particularly in the area of law enforcement. When a sailor was the victim of a violent crime, quite often he would file a report and receive no further information. Inquiries to the police or the prosecutor's office by the victim or his command would prove very frustrating. Conversely, police and prosecutors were frustrated because the operating schedules of ships and aviation units in the Pacific made communicating with military victims and witnesses difficult. Units would be deployed when an investigator or prosecutor needed to speak with a victim, but there was no effective way of ascertaining the availability of the person.

Realizing that effective law enforcement requires close cooperation with local authorities, a Navy attorney stationed in Hawaii set about the task of building a legal liaison between the Navy and Honolulu law enforcement agencies.

The Navy attorney would head the legal liaison program and hold a special appointment as an assistant U.S. attorney for the District of Hawaii. This would enable him to work closely with the U.S. attorney, insuring that there was a good working relationship between the Navy and Federal and local law enforcement authorities. Moreover, Navy commanders interested in the status of pending cases affecting members of their command would have a readily accessible attorney who could provide accurate information. This is often crucial, since commanding officers must make personnel decisions, evaluate security clearances, and even answer congressional letters of interest. The liaison attorney, who worked closely with both Federal and local agencies, was considered a key link in the program.

When the Navy representatives approached the Honolulu Police Department with the liaison concept, the response was immediately enthusiastic. After several conferences, a two-pronged program—education and case liaison—was devised. A sergeant assigned to the community relations division of the Honolulu Police was detailed to work with the Navy liaison officer and assist in all police-related matters. Similarly, the city prosecutor named one of his deputy prosecuting attorneys—a former military attorney—as his contact with the Navy. These two individuals work on a person-to-person basis with their Navy counterparts.

Education Phase

The education phase of the legal liaison program involves three separate audiences: Active duty members of the Navy and the Marine Corps, families of active duty members, and officers of the Honolulu Police Department. Active duty and family groups are taught by the Navy attorney, Naval Investigative Service Agent, Honolulu Police Department community relations sergeant, and a sergeant from the patrol division.

Using the charts in figures 1 and 2, the criminal justice system, both Federally and locally, is explained, with a focus on the Navy-Honolulu Police liaison program. Other topics include the organization and responsibilities of the Honolulu Police, methods of crime prevention, the importance of filing an immediate crime report with the Honolulu Police, and local customs and problems. The latter is particularly important, for nowhere else in the country are there so many races and cultures living together in such a small geographic area. While popularly regarded as a "melting pot," there is some friction present in Hawaii, and the liaison presentation is an attempt to explain these problems.

One myth that Honolulu officers wish to dispel is that of the "local boy" cop looking out for the "local boy" suspect, to the disadvantage of a victimized Navy sailor. (Though the term "local boy" can refer to a caucasian born and raised in Hawaii, its popular use is confined to a person of oriental or polynesian ancestry reared in Hawaii.) Because of this, many military people believe that a person from the continental United States is given less equitable treatment than a person, including a suspect, who is a "local boy." The police emphasize to the military groups that they have fewer problems with the military than with some members of the local community. To the beat officer, these problem citizens represent a greater threat to the community, and there is certainly no preference shown to them over a victimized sailor.

Figure 1

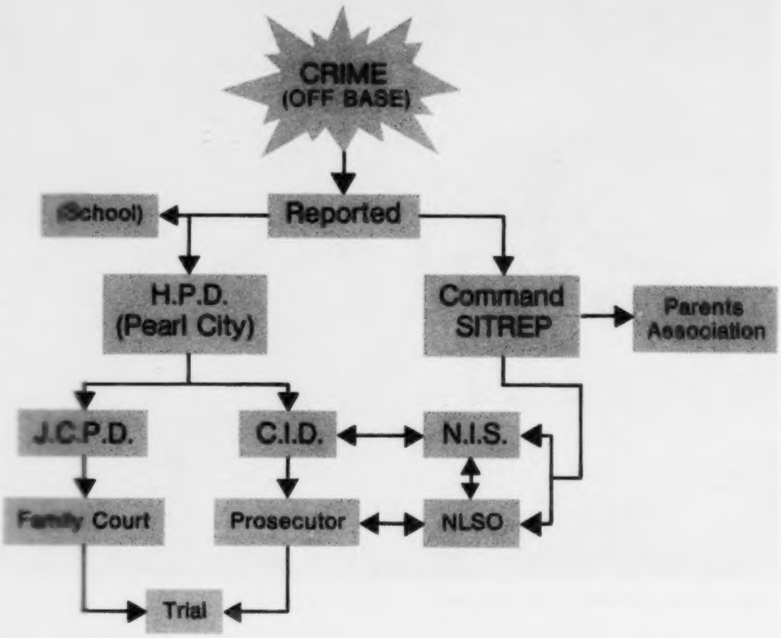
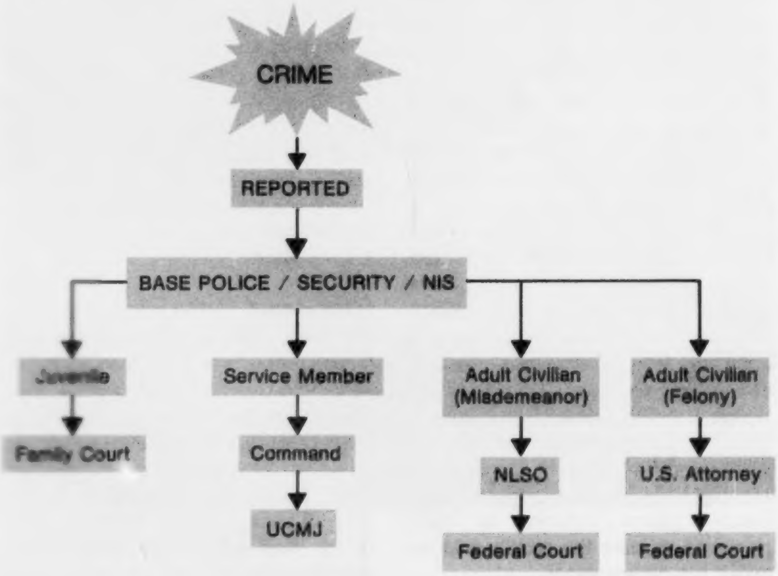

CRIME
(OFF BASE)
Reported
(School)
H.P.D.
(Pearl City)
Command
SITREP
Parents
Association
J.C.P.D.
C.I.D.
N.I.S.
Family Court
Prosecutor
NLSO
Trial

Figure 2


CRIME
REPORTED
BASE POLICE / SECURITY / NIS
Juvenile
Service Member
Adult Civilian
(Misdemeanor)
Adult Civilian
(Felony)
Family Court
Command
UCMJ
NLSO
U.S. Attorney
Federal Court
Federal Court

Local and Naval authorities confer on a case.

The officers also advise military audiences of procedures used to register misconduct complaints against police officers, either through a civilian police commission or the Honolulu Police internal affairs division. This is considered a constructive outlet for citizens who wish to voice a complaint.

Honolulu officers receive classes from the Navy attorney/Naval Investigative Service team. Speaking both to recruits at the Honolulu Police Academy and to sergeants and senior officers receiving inservice training, naval representatives acquaint the officers with the Navy's role and interest in effective law enforcement. A new facet of the program is a field trip by the Honolulu Police recruit class to a nearby naval air station to spend a day learning what the Navy does and discussing Navy life with the sailors. Exposing police officers to Navy personnel betters the relationship between the organizations.

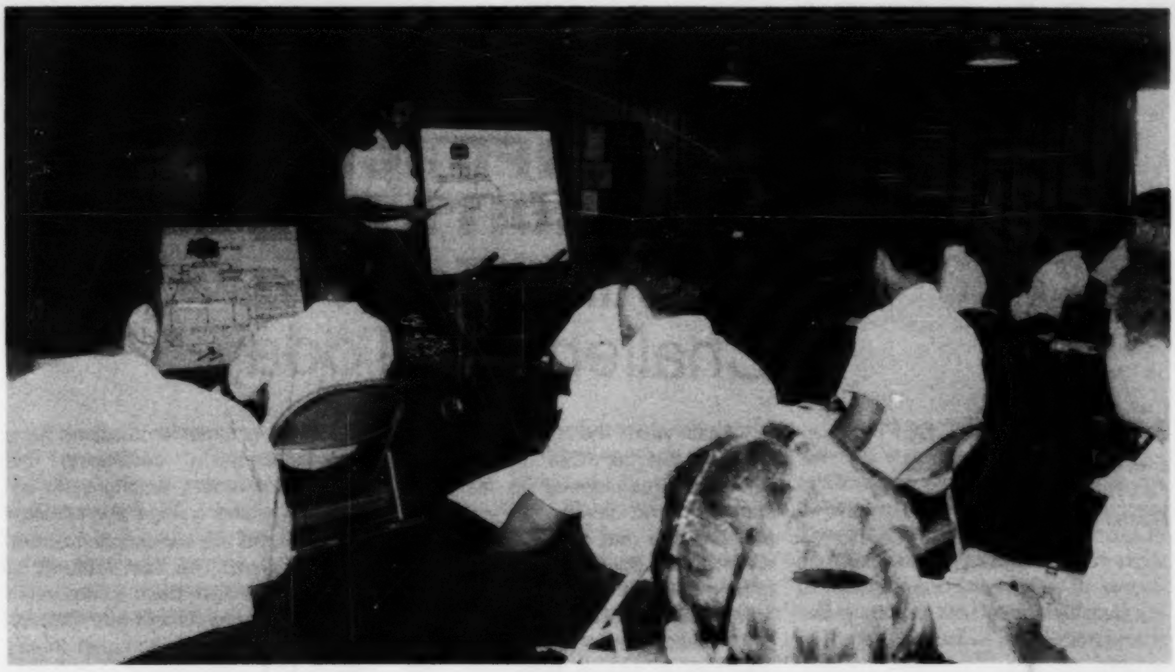
During the 12-month period ending June 30, 1980, the liaison presentation was made to over 3,000 persons. The primary thrust of the education phase is to open lines of communication between the Navy community and police and to reaffirm that all are working toward the same goal. With frequently spirited questions and answer sessions, the points of view of both Navy personnel and police officers are exchanged, analyzed, and debated.

Case Liaison Phase

While the education phase may lessen tensions and increase participation in the criminal justice system, case liaison provides a direct opportunity for the Navy, Honolulu Police, and the prosecutor's office to work together. When a sailor or dependent is victimized off base, a factual report is immediately filed with the Honolulu Police and the sailor advises his unit of what occurred. The unit then prepares an electronic teletype message—a "situation report"—for the Commander in Chief, U.S. Pacific Fleets, with a copy also being provided to the Naval Legal Service Office, Pearl Harbor. There, the legal liaison attorney and the Naval Investigative Service agent will monitor the case as it progresses through the Honolulu Police and prosecuting attorney channels. Often, monitoring involves little more than keeping the command posted on the progress of the case.

Frequently, however, a detective or deputy prosecuting attorney will request assistance in making available a witness who is on-island, out-at-sea, or transferred to the mainland. The legal liaison now provides a dependable person who can quickly obtain needed information from the witness on location.

Prior to the legal liaison program, constraints on the city budget sometimes meant that no matter how meritorious the case, there was not enough money to bring witnesses from the east coast back to Hawaii. Because of this problem, the cases were sometimes dismissed, leaving the assailants



The criminal justice system, both Federally and locally, is explained, with a focus on the Navy-Honolulu Police liaison program.

free to prey again. Over the last several months, however, a number of victims have, at Navy expense, been flown back to Hawaii to testify in State criminal trials.

Alternatively, in cases where operational commitments of ships at sea have precluded the availability of sailors on a certain court date, close liaison with the Navy attorney has enabled prosecutors to obtain successfully continuances until the sailors are available to testify. The convictions obtained more than justify the trouble and expense in securing the attendance of important witnesses.

Making the System Work

The result of the Navy legal liaison program in Hawaii is person-to-person contact between large and divergent organizations. This contact builds understanding and rapport and serves as a working reminder that dedicated people can come together to make the criminal justice system work. FBI

Interaction among local and Naval law enforcement personnel is an important part of the program.

LAW ENFORCEMENT ACCREDITATION

Meeting Tomorrow's Challenges Today

By KENNETH E. JOSEPH
Executive Assistant Director
Federal Bureau of Investigation
Washington, D.C.

Last year, the Commission on Accreditation for Law Enforcement Agencies was formed to establish standards and develop an accreditation process that will give local law enforcement agencies an opportunity to demonstrate *voluntarily* that they meet professional criteria.

Accreditation of law enforcement agencies is not a new idea. Law enforcement executives have been involved in the development and implementation of standards within their individual agencies for many years. Every public and Presidential commission, as well as every published report of findings of those commissions, has cited the need for some type of systematic improvement in the delivery of law enforcement services in our country. But until now, the approach on a national basis somehow has not been right.

Accreditation, by definition, is attaining professional stature. It means that the practices of an agency are within defined terms of what services an agency should deliver to the public. This program is committed to improving the atmosphere in which law enforcement is conducted and to enhancing the professional stature of all law enforcement practitioners.

Efforts of other professions have been studied in developing the accreditation model, among them are the hospital and college accreditation programs and the corrections accreditation program. The best features of these models have been incorporated into the law enforcement accreditation effort. However, one common thread runs through each model examined—the need to have practitioners in on the process from the start. The program needs the greatest amount of field participation in the drafting from the beginning.

Impact on Law Enforcement

To understand what this program means to each practitioner and what impact it will have on law enforcement, an overview of the program and how it will unfold in the coming months is in order. The program managers represent four associations: The International Association of Chiefs of Police (IACP), The National Organization of Black Law Enforcement Executives (NOBLE), The National Sheriffs' Association (NSA), and The Police Executive Research Forum (PERF). These associations are involved in the process of developing draft standards for the full range of administrative and operational procedures conducted by an agency. Each is concentrating on specific topics, conducting research, and formulating standards, as well as maintaining a support role in all other areas under staff consideration.

Standards research is based on field knowledge and field participation. The standards will measure accurately what services all law enforcement agencies in this country provide to the public, ranging from the role of the agency, administration and operations, to technical services.

Past and Present Considerations

There have been previous efforts in standards development, such as reports from the National Advisory Commission on Criminal Justice Standards and Goals and the American Bar Association/IACP standards on the urban police function, which suggested adoption of standards by law enforcement agencies. However, the only endorsements for the ideas of compliance with standards on a large-scale basis came from State law enforcement planning agencies and some nonlaw enforcement groups, such as the U.S. Conference of Mayors. Most law enforcement agencies did not choose to adopt these standards for several reasons:

1) There were no means for implementing the standards;
2) No method was outlined for determining compliance; and
3) As the impetus for standards did not come primarily from within law enforcement, there was little grass roots support for their use.

This current effort in standards development is different from the very beginning, which is not to say that many of those standards developed earlier aren't good ones. These standards envision an eventual accreditation process where agencies will actually apply for and be awarded that status. This requires a new kind of standards, written for measurability with accreditation in mind. The standards language, therefore, will be different. Each standard can be answered "yes" or "no." Each will contain an individual thought and each will be supported by an explanatory commentary.

Organization

Approval of the standards is the responsibility of a 21-member commission, who were all appointed and unanimously confirmed by the executive directors and presidents of the four participating organizations. There are 11 law enforcement professionals and 10 representatives from public and private sectors across the country, including a judge, a professor, a State representative, a county commissioner representative, a city manager, city council members, and a governor. Of the 11 law enforcement representatives on the commission, 4 serve as rotating chairmen—Chief of Police Glen King, Dallas, Tex.; Dr. Lee Brown, Public Safety Commissioner, Atlanta, Ga.; Chief of Police Thomas Hastings, Rochester, N.Y.; and Sheriff Dick Wille, West Palm Beach, Fla.

The commission, in conjunction with the staff, has developed working relationships with others involved in the delivery of law enforcement services. These range from individual agencies to criminal justice education departments of colleges and universities to associations such as the National Association of State Directors of Law Enforcement Training (NASDLET) and the International Association of College and University Security Directors.

The staff managers of each participating organization are: William T. Dean, (IACP); William Matthews, (NOBLE); Tom Finn, (NSA); and Roy McLaren, (PERF). Donald J. Anderson of the Law Enforcement Assistance Administration (LEAA) serves as the project monitor. The commission also employs a full-time public information organization whose representative is Karen A. Donnelly.

An average of three commission meetings a year is planned for the duration of the program, and the meetings will be held in different areas of the country. The staff of the four organizations involved in the program meet at least weekly to coordinate staff research, develop standards, and supervise the program.

Executive Assistant Director Joseph

What Will Accreditation Mean?

There are several advantages of an accreditation program. First, it is an effort by law enforcement to define and determine a set of goals and objectives within its own profession. It will increase the cooperation between the law enforcement agency and other elements in the criminal justice system. After all, law enforcement officers are the first link in the criminal justice process. But without the solid and prepared support and cooperation of the rest of the criminal justice system—one that can handle an increase in caseload—the improvement process may stop right there.

The enhanced status afforded with accreditation should allow the agency to be more effective in its recruiting and provide an accredited agency a solid platform for building and maintaining public confidence.

Other benefits of this effort should result in higher morale within an agency. Standards should have a positive effect on the attitude an officer brings to the job, which in turn affects the timely and responsive performance of individual duties. It institutionalizes change and encourages change from within a positive atmosphere. It allows a yardstick for measuring the department— a yardstick created and promulgated by those who know law enforcement the best—practitioners like yourselves.

Contributions From The Field

There are many ways the commission is asking for practitioner support. One of the methods, which has been adopted and modified by the staff, is our Manual for Drafting Standards or the Practitioners Package. The package was developed originally to allow members on committees of the associations to review staff work on standards and give their comments before presenting them to the commission. It was considered so indispensible to the development of practical standards that the full staff of the commission developed a sister package for use with law enforcement practitioners as a whole.

The response, to date, has been very positive. Law enforcement executives and others involved in the criminal justice field not only are very interested in the program but have indicated a keen interest in contributing to the program on a continuing basis. The program does not intend to develop standards in a vacuum; support and guidance of the law enforcement profession is needed through all phases.

Current Status of Program

The first phase (a 3-month period) is complete. The commission was appointed and a set of criteria for standards developed. The criteria will assure that the standards will be practical, clear, relevant, and comprehensive. Articles of incorporation and bylaws for the commission were developed and approved. An outline of the *topical* areas, or areas the standards will cover, was developed as part of the first phase.

The second phase began in January 1980. Work is concentrated on the design of a standards format, the completion of the listing of topical areas, research on standards, drafting of actual standards for submission to the commission, and developing field test technology.

The third phase will pick up in January 1981, and continue for a 15-month period. This period will cover the actual field testing process, modification of standards as necessary, and the development of the accreditation process. Subsequently, the commission will become an independent body, which should be accomplished within a 2-year period beginning in mid-1982.

Using the Practitioners Package and other information elements, the staff currently is drafting standards language. The first set of staff-developed standards has just been forwarded to the commission. The staff will be meeting in October with the commission to review the standards submitted for their consideration.

Field testing will uncover some areas which will require more research and thought than had been originally anticipated. It is expected that modifications will be required for some standards. Field testing will be followed by the final promulgation of standards for approval by the commission and the beginning of the accreditation process for agencies.

The Accreditation Process

The staff expects the process to be initiated when an agency applies for accreditation and is sent a self-assessment format to complete. The commission will review that assessment and may recommend tentative accreditation status.

Next, the commission will send a small evaluation team to examine the agency's compliance with each of the standards. If the evaluation team confirms the agency's compliance with the standards, accreditation status will be awarded by the commission.

There are regional differences, size differences, and functional differences within classes of law enforcement agencies. The commission will take these factors into consideration during the standards development phase, as well as during the accreditation phase.

The program must be realistic. It should blend the best of differing parts of the country and share what has worked with that which hasn't in a uniform, systematic approach. The entire success of the program will be dependent on those standards.

If standards are proposed that are barely minimum, justice would not be done to the accreditation process. A balance needs to be struck between the ideal and the real, so that achieving accreditation will result in improvement in services by most of the agencies that complete the process.

This program is an opportunity. The commission is reviewing the work of the staff who have sifted through masses of research, field drafted standards and comments, and sample programs and field testing. It is their job to make sure those standards are representative of what is happening in the law enforcement field and to provide an opportunity for individual officers, as well as departments, to increase their professionalism.

Those standards should not be "pie-in-the-sky." They should be realistic, measurable, and concrete. The program will not tell agencies "how to"; it will point out "what to" and leave "how to" to individual law enforcement executives.

Some groups and some individuals may view this accreditation effort as another attempt at Federal intervention in local law enforcement. This is not true. It may be funded by a grant from LEAA, but standards are being drafted by law enforcement practitioners, not bureaucrats, with full involvement from the field, police managers around the country, and approved by a distinguished commission with broad representation from the State and local levels.

The accreditation process will work. The law enforcement community is one of the most cooperative and cohesive in this country. For years, departments have contributed to the FBI's Uniform Crime Reporting Program, even though those departments may be called on the carpet for what the statistics show. Law enforcement is a group motivated by the genuine desire to help people and to cope with some of the symptoms of society's ills.

The program has just started down the road. At the next commission meeting the staff will have prepared the first standards. The field-drafted standards are beginning to come in, along with questions and comments.

The commission is tying into a network of experts, ranging from officials in cities that have received Federal Government monies through LEAA to those individuals in departments that have developed special programs on their own.

This is perhaps a landmark effort for law enforcement. This program may be one of the most significant federally funded efforts directed toward providing assistance to local law enforcement agencies.

The overall goal is the improvement of law enforcement services in this country. With budget cuts and inflation, law enforcement faces many problems today. Some of those problems can be solved by looking at the lessons of the past; others need a look to the future—a future characterized by changing technology and other advances.

This process of accreditation will assure that our standards, once developed, will continue to be a dynamic, evolving set of tools to improve the delivery of law enforcement services.

FBI

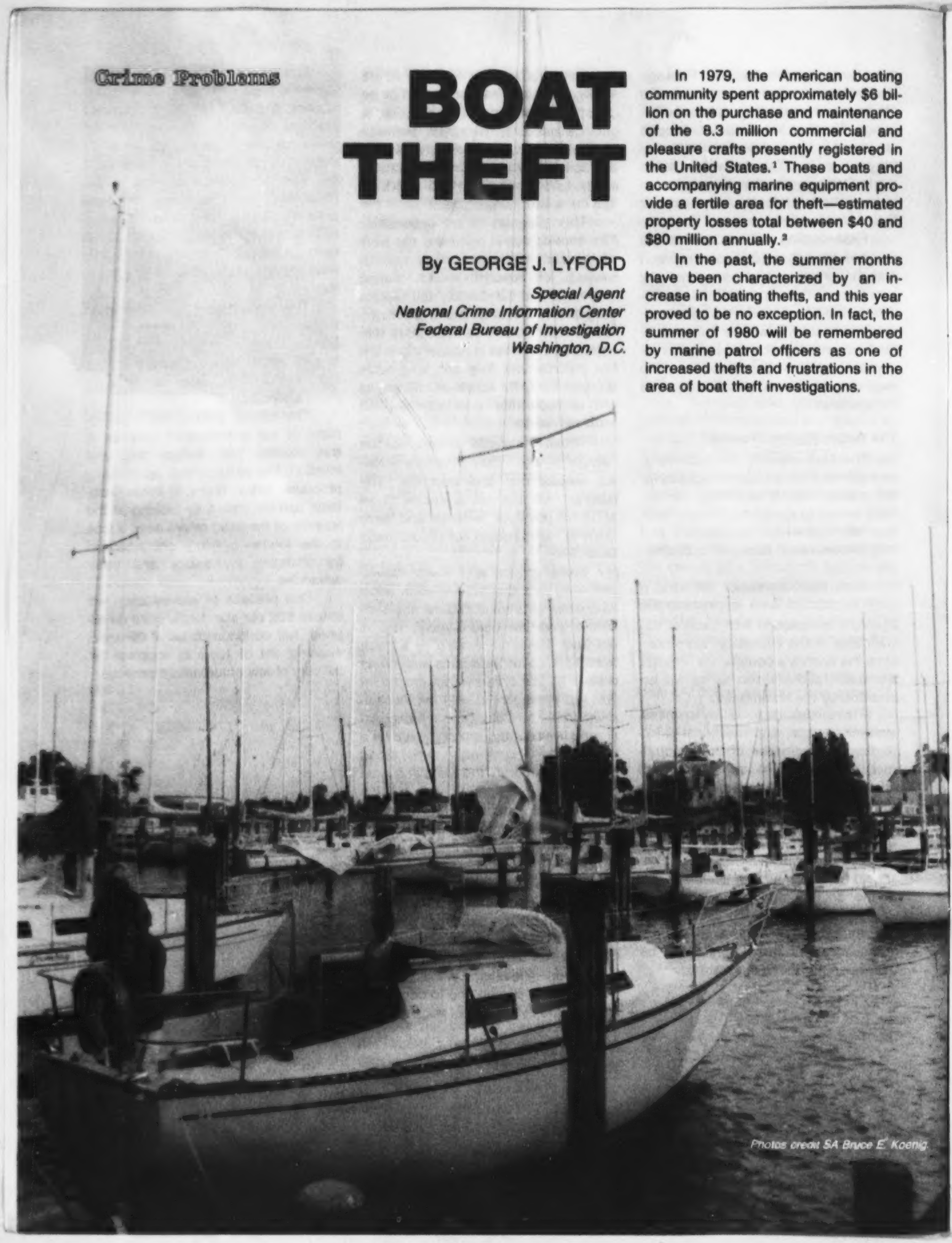
BOAT THEFT

By GEORGE J. LYFORD

Special Agent
National Crime Information Center
Federal Bureau of Investigation
Washington, D.C.

In 1979, the American boating community spent approximately $6 billion on the purchase and maintenance of the 8.3 million commercial and pleasure crafts presently registered in the United States.[1] These boats and accompanying marine equipment provide a fertile area for theft—estimated property losses total between $40 and $80 million annually.[2]

In the past, the summer months have been characterized by an increase in boating thefts, and this year proved to be no exception. In fact, the summer of 1980 will be remembered by marine patrol officers as one of increased thefts and frustrations in the area of boat theft investigations.



Photos credit SA Bruce E. Koenig

To combat boat thieves effectively, it is essential that patrol officers are properly trained and the boating community cooperates with law enforcement. Traditionally, this is the time of the year when northern marine patrol units are being deactivated and officers are returning to their regular patrol duties. However, the coming winter months should be used by law enforcement as a period of extensive training for patrol officers and as a time for community awareness programs for boat owners.

Marine Patrol Training

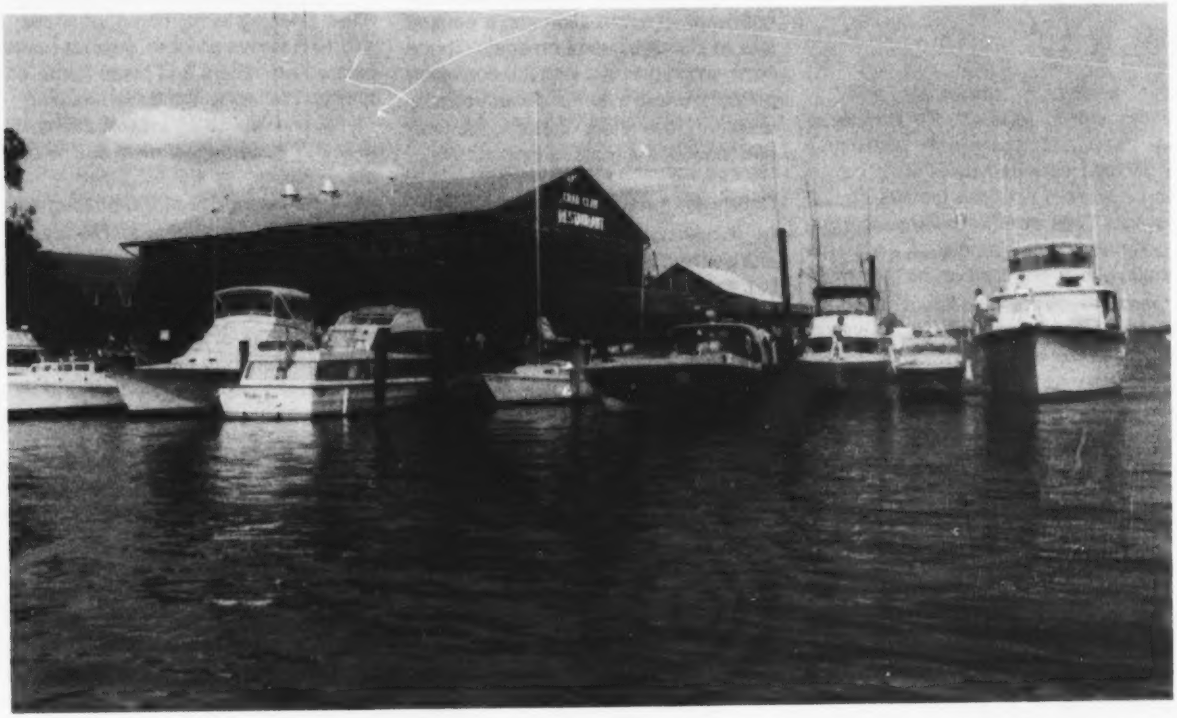
The law enforcement community should insure that general patrol officers know how to check the documentation and identification number of any boat encountered during the course of normal patrol. The Federal Boat Safety Act of 1971 mandates a hull identification number (HIN) on all boats built since January 1, 1973. Although the HIN has been in effect for several years, it is still virtually unknown to many law enforcement officers.

A typical HIN will consist of 12 characters. The first three characters are the manufacturer's identification code, which is assigned by the Commandant, U.S. Coast Guard. Characters 4 through 8 are assigned by the manufacturers and must be letters of the English alphabet, Arabic numerals, or both, except the letters I, O, and Q. Characters 9 through 12 indicate the date of certification. These characters must be either Arabic numerals, with characters 9 and 10 indicating the month and characters 11 and 12 indicating the last two numerals of the year, or a combination of Arabic numerals and letters of the English alphabet, with character 9 indicated as "M," characters 10 and 11 the two numerals of the model year, and character 12 the month of the model year. The first month of the model year, August, must be designated by the letter "A," the second month, September, by the letter "B," and so on until the last month of the model year, July.

A manufacturer may display additional characters after the 12 required characters, if they are separated by a hyphen. (See fig. 1.)

Knowledge of the HIN structure is invaluable when an officer is checking a boat's registration, which is required in 45 States. In many cases, it will, at least, provide patrol officers with a starting ground if further investigation is warranted.

Another tool available to law enforcement officers in the investigation of marine thefts is the National Crime Information Center (NCIC). The NCIC boat file became operational in 1969, with an initial listing of 2,470 stolen boats. Presently, 21,000 stolen crafts are entered in NCIC. This file was established to assist law enforcement in combating the ever-increasing stolen watercraft problem. For NCIC purposes, a boat is defined as a vessel for transport by water, constructed to provide buoyancy by excluding water, and shaped to give stability and permit propulsion. This definition includes every type of watercraft, from commercial ships to jet skis and rafts.



Special Agent Lyford

Figure 1

ABC	12345	0774	—	12C
Coast Guard Assigned Code	Hull Serial Number	Certification Date		Optional Additional

Boats are entered into NCIC if they have an affixed registration or document number. However, a permanently attached serial number may be entered into the NCIC boat file, if a theft report has been made. The one exception to this is a boat stolen prior to registration or documentation, even if a hull serial number is permanently secured to the boat. An authorized agency may enter a loaned, rented, or leased boat that has not been returned, if an official police theft report is made or a filed complaint results in the issuance of a warrant.

Added to the frustrations of boat theft investigation is the fact that there are no accurate, up-to-date statistics on the number of boats stolen or the value of stolen marine equipment. There is also the problem of poor coordination of information and a general lack of identifying data on boats. These facts, when coupled with the confusion of boat owners over the correct agency to report the theft, make boat theft investigations a frustrating experience.

Community Awareness Programs

Community awareness programs can be used as another means to combat the rapidly increasing number of boat and marine equipment thefts. During winter months, police departments can teach simple anticrime techniques to members of the boating community. Two areas which should be stressed are property records/identification and physical security.

Boat owners should be instructed to:

1) Maintain an inventory of all marine property, listing manufacturer, model, and serial number of each item, and

2) Permanently mark all items with a unique identifier (major items should be marked in several places).

With regard to physical security, it is suggested that boat owners:

1) Invest in high-quality padlocks for all doors. Sliding windows and portals should have solid, inside bolts and all hatches should have inside hasps or padlocks;

2) Use hardened steel chains or steel cable for mooring or dock lines instead of rope;

3) Use locking devices that immobilize outboard motors or remove vital parts of the motor, i.e., spark plugs, rotor, or prop;

4) Insure adequate lighting on docks, piers, walkways, parking areas, and around buildings and offices;

5) Install alarm systems which use either flashing lights, horns, or sirens;

6) Remove all loose gear on boats located on trailers and place frame on blocks. Dismantle the trailer coupler;

7) Aid police in investigations by promptly reporting crimes and suspicious activity.

The magnitude of the boating and marine theft problem is ample reason to work on police training and community awareness projects in the coming months. Only through the dedication and hard work of law enforcement and the cooperation of the boating community can the profit be lowered and the risk raised for marine thieves. **FBI**

Footnotes

[1] "Boat and Marine Equipment Theft," summary report of a 1969 national workshop, University of Rhode Island, Marine Advisory Service, 1980.

[2] Ibid.

The Michigan State Police Diversion Program

By SGT. JACK R. SHEPHERD

Michigan State Police
East Lansing, Mich.

Police juvenile diversion programs are becoming increasingly popular throughout the country; however, one of the major criticisms of these programs is that they actually "widen the net" by bringing more youths into contact with the juvenile justice system. A large portion of this problem can be avoided if diversion programs are structured around written guidelines and specific criteria designed to assist departmental personnel in the decisionmaking process.

The Michigan State Police diversion program has been in existence since 1975. The success of this program lies in the uniform application of written guidelines at 64 State police posts located throughout Michigan. Another key ingredient of the program is the acceptance and support of the program by departmental administrators and field personnel.

Michigan State Police troopers apprehend over 7,000 youths each year; however, as a result of this program, over 2,500 youths are diverted annually from the juvenile justice system.

Investigating Officer's Responsibilities

The most important component of the Michigan State Police diversion program is the trooper in the field. This person has total responsibility for determining how a juvenile offender will be handled once an apprehension has been made. Even though an investigating officer is never required to divert a youth who has been apprehended, he must adhere to a set of screening guidelines that assist in determining if a youth is eligible to be diverted.

The screening guidelines are based on the severity of the crime committed. If a youth has been involved in a felony offense against a person (armed robbery, rape, etc.) or any repeat felony offense against property, such as a breaking and entering, he cannot be diverted. All misdemeanors and so-called "status offenses" (runaway, truancy) may be diverted at the investigating officer's discretion. If the officer decides that juvenile court would be the best manner in which to handle the youth, he proceeds through the petitioning process.

If, on the other hand, the investigating officer decides that the youth would benefit more through diversion, the case must be referred to the post's community services office for examination.

Sergeant Shepherd

Colonel Gerald Hough

Responsibilities of the Post Community Services Officer

Each of the 64 State police posts in Michigan have a trooper assigned to the role of post community services officer (P.C.S.O.). This trooper has the combined responsibility for all juvenile, crime prevention, and public relations activities at the post. The major function of the P.C.S.O. is to develop and maintain all aspects of the department's diversion program. This includes monitoring all juvenile complaints and maintaining juvenile files at the post.

The P.C.S.O. is also charged with developing a liaison with community-based resources that can be used as referral sources for troubled youths and their families. Agencies and resources are limited only to the degree of their availability and the extent to which an acceptable level of cooperation can be attained between the post and the referral source.

Whenever a youth is referred to the P.C.S.O., the officer's responsibility is to apply a set of written criteria that will ultimately determine the youth's eligibility as a diversion candidate. The five diversion criteria that are applied include:

1) Nature of the offense
   a. relative seriousness of the crime
   b. degree of criminal sophistication
   c. desire of the victim/complainant to prosecute
2) Age of the offender
   a. intellectual and emotional maturity
3) Nature of the problem that led to the offense
   a. evidence of any obvious emotional, psychological, physical, or educational problem
4) A history of contacts or use of physical violence
   a. contact with neighboring police agencies
   (Is the youth a recidivist?)
5) Character of the offender and history of behavior in school, family, and peer group settings
   a. contact with school officials
   b. peer group relationships
   c. family characteristics, parental harmony, and sibling relationships

Once the diversion criteria have been applied, the P.C.S.O. is in a better position to determine whether a youth will be offered the alternative of diversion. If he finds anything that precludes the use of diversion, a petition is then sought. Assuming that the youth appears to be a good candidate for diversion, the P.C.S.O. would begin the actual diversion procedures.

Diversion Procedures

The P.C.S.O. is required by departmental policy to schedule a conference with the parents (or guardian) and the youth to discuss possible options. This conference, which is normally conducted at the post, is totally voluntary but does require the complete cooperation of both the parents and the youth. Parents and youths are advised that if they agree to diversion, no petition will be requested. It should also be noted that the diversion conference is held only after the investigation is completed, and no promises of diversion are made during the investigative phase.

If the conference results in an agreement, the P.C.S.O. and the family have two options. First, the youth may be released to his parents without any further involvement. This disposition is perhaps the purest form of diversion in that it removes the youth from the "system" at an early point. It is also the most popular form of diversion; P.C.S.O.'s use this option approximately 78 percent of the time. The second option involves referral to an outside agency. This course of action is used approximately 22 percent of the time and includes the use of a variety of agencies.

If it is decided that an outside agency might be able to assist a family, a "diversion referral agreement" is completed. This form is designed primarily for referral and feedback and gives the referral agency basic information about the youth. It also gives the agency an opportunity to provide the post with feedback concerning the referral. It should be stressed that the diversion referral agreement is not a contract and does not bind anyone to a specific course of action. It is designed to foster better communication between the family, the referral agency, and the post.

What happens when a youth or his family decide against diversion? The P.C.S.O. may request a petition; however, officers are encouraged not to send youths to court merely out of spite. If the P.C.S.O. sincerely believes that the youth would benefit from the court experience, a petition may be sought. Another situation that might send a family to court would occur if the parents demanded their "day in court" to resolve the problem. In reality, though, families almost never turn their backs on the program and overwhelmingly welcome the positive attention to their problem.

Referral Agencies

Each State police post uses a variety of referral agencies depending on what is available. Common sources of referral include: Youth services bureaus, school counselors, Catholic family services, and area recreation programs.

Of particular importance is the fact that every post has developed a liaison with a minimum number of outside agencies for referrals. This is significant, as the Michigan State Police have posts in urban as well as rural regions of Michigan's upper and lower peninsulas.

Costs for operating the diversion program are kept low through the use of existing outside agencies. While P.C.S.O.'s often hold lengthy interviews with families, they do not counsel in the true sense of the word. Instead, the P.C.S.O., acting with the post commander (lieutenant), serves as a catalyst in the community in the development of youth service bureaus. Post commanders also attempt to secure grants for diversion services in their community. P.C.S.O.'s also serve on advisory boards for runaway shelters, youth service bureaus, and similar youth agencies in their areas.

District Coordinators

The Michigan State Police is organized into eight districts. Eight district coordinators, all lieutenants, have responsibility for the department's juvenile, crime prevention, and public relations programs. The district coordinators play a major role in the area of quality control and program evaluation of the department's diversion program. District coordinators review all juvenile complaint reports for compliance with departmental policy. They also assist both the post commander and the P.C.S.O. with maintaining of the post's diversion program. All facets of the program are routinely evaluated by the district coordinator who makes recommendations for improvements when appropriate.

Summary

The success of any program rests with its organization and the people who are operating it. The Michigan State Police diversion program relies on fully developed written guidelines that give both investigating officers and departmental specialists specific roles. Both ingredients are important in maintaining statewide uniformity and program control.

This program emphasizes the use of available community resources and the abilities of individual post community services officers. While the program does have well-developed written guidelines, it also allows for total discretion on the part of the investigating officer. All of these factors combined have contributed to the overall growth and acceptance of the program, allowing the Michigan State Police to successfully divert approximately 40 percent of all the youths that are apprehended annually by the department. **FBI**

Training

EVALUATING RECRUIT PERFORMANCES THROUGH ROLEPLAYING

By SGT. TIMOTHY N. OETTMEIER
Police Department
Houston, Tex.

Throughout the tenure of most recruit training programs, police trainees (cadets) are held responsible for a vast amount of information; the value of this information, however, does not really begin to come into focus until it is applied to a "realistic situation." The Houston Police Academy's recruit training crime scene program is an attempt to involve the cadets in "realistic situations" where they can apply the knowledge gained from previous classroom lectures, visual aids, and demonstrations.

Instead of conducting a war game type of "cops and robbers," the Houston crime scene program consists of variations of two types of crime—a robbery scene and a burglary scene. These scenes were selected due to their versatility—the cadets perform a large number of tasks veteran officers often handle and are conducted in the evening hours, using police cars, radios, and weapons. Actual business locations are used for the enactment of the training exercises. Complainants, suspects, and witnesses are, in reality, academy staff members and field training officers (FTO's).

The cadets attempt to position a struggling robbery suspect for a search prior to placing him in the patrol car.

The cadets must acknowledge their call and locate the business address before driving to the scene.

The crime scene program is subdivided into a demonstration night and two separate crime scene sets. The demonstration night consists of having the cadets report to a crime scene location to observe the enactment of an actual scene by the FTO's.

Initially, the FTO's conduct the first scene in "slow motion," stopping frequently to explain to the cadets why they reacted in a particular fashion. The cadets are allowed to interact with the FTO's as the scene progresses. Eventually, the cadets observe this scene and others occurring in a normal manner, free of any interruptions. On conclusion of the demonstration exercises, the FTO's answer any additional questions the cadets have.

The remainder of the program consists of two separate sets of crime scenes. Set #1 consists of scenes with a low level of difficulty designed to be conducted without any physical confrontations between the cadets and suspects. The difficulty level rises in Set #2—the scenes now consistently reflect any problems encountered during daily patrol procedures. (Hostage situations, ambush tactics, and barricaded suspect situations are avoided as these require a special type of training cadets do not normally receive.) If, at the conclusion of these two sets, a cadet has failed any of the exercises, he is given the opportunity to complete another exercise similar in nature to the one failed.

What sets the Houston program apart from other programs of this type is the realism of the various crime scene exercises and the ability of the trainers to evaluate cadet performances.

The Preparation

Throughout the training program, the academy staff prepares the cadets to function as capable probationary police officers. The majority of the preparation comes from classroom lectures, visual aids, and various demonstrations. While it is absolutely necessary to subject the cadets to several weeks of academic instruction, complete preparation to become a successful probationary police officer involves going beyond classroom activities. Emphasis, therefore, is placed on the "practical application" of training in a realistic setting. As a consequence, mid-way through the training program, a gradual shift occurs—the cadets become more involved in practical exercises. It is through participation in these exercises that the cadets are more prepared to cope with the rigors of the crime scenes.

The cadets must complete, for example, a map reading exercise specifically designed to force them to use a city map to locate and drive to various addresses and buildings throughout the city. Prior to participating in the crime scene program, the cadets must also complete an "officer safety and survival exercise" designed to have the cadets search various mock scenes. The basic objective is to have the cadets correctly apply various searching techniques and procedures learned in the classroom. There are no physical confrontations. If suspects are found, however, the cadets are assessed on how well they conducted the search, not whether they controlled the suspect. Finally, the cadets must complete a minimum 12 hours of basic firearms training prior to their crime scene participation. This is necessary to insure that each cadet is capable of handling his firearm in a safe and efficient manner. (It should be noted that the cadets receive proficiency firearms training later in the academy program.)

As the cadets complete each of these practical exercises, they begin to envision the scope of a police officer's job. Enthusiasm and excitement are generated and the cadets begin to pay more attention in class.

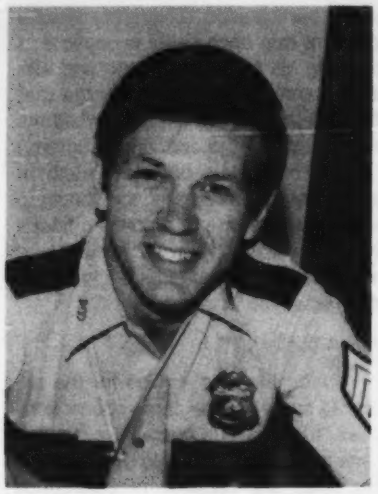
The Procedure

When the time arrives for the cadets to complete the crime scene exercises, the previous practical exercises have conditioned them to demonstrate that they are capable of performing those tasks normally performed by veteran police officers. Each cadet, consequently, must successfully complete the following crime scene format:

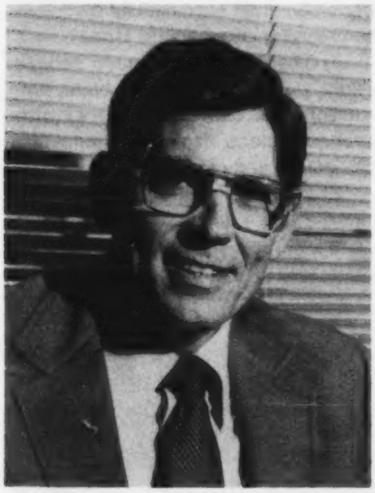
1) The cadets are issued service pistols, police holsters, and blank ammunition. The cadets supply their own notebooks, pens, flashlights, handcuffs (city issue), and city maps;

2) The cadets attend a simulated rollcall session conducted by an academy staff member. They are assigned to work in "two-man" units; general announcements are made in addition to a brief pep talk. Upon dismissal, the cadets locate and inspect their cars and sign on duty before receiving their first call;

3) The cadets perform as primary and backup unit members before the conclusion of the night's activities. As a primary unit member, the cadets are dispatched to a scene (which they must locate), conduct the appropriate investigation, and when the arrest is made, dispose of the case by receiving authorization to book the suspect from the mock detective, booking the suspect with the mock booking officer, and returning to service to await the next call for which they will serve as a backup unit. While they are awaiting their next call, the cadets work on their offense report; and



Sergeant Oettmeier



B. K. Johnson
Chief of Police

4) Once a cadet has completed the role of a member of a backup and primary unit, he is required to complete all the necessary forms and offense reports associated with the case and file charges with the mock district attorney before the training ends.

The Scenes

Impromptu crime scenes usually result in a difficult scene with gunfire and confusion for the cadets. To counteract this, the staff-developed crime scene scenarios are based upon actual experiences of veteran police officers. Each scenario briefly sets the scene and describes the basic actions of the FTO's. The FTO's are then allowed to select the scenario they wish to recreate. Upon conclusion of one scene, another scenario is selected and the FTO's again act as complainants and suspects. This procedure results in the cadets being exposed to variations of robbery and burglary crime scenes. This procedure also prevents the cadets from being able to gain an advantage through collaboration about a scene prior to their actual participation in it.

"This approach to recruit training has proven successful in producing persons who are capable of becoming competent police officers."

The Evaluation Process

Most recruit training programs attempt to evaluate the abilities of cadets through written tests. The results of the crime scene program, however, can provide additional information to measure a cadet's capabilities. Not only are the cadets' performances observed, evaluated, and documented, but these observations are transformed into numerical scores and compared against other cadets' performances, making it possible to examine how successfully a cadet can perform actual police duties and responsibilities.

With the advent of this program, a determination can be made as to how well a cadet: (1) Complies with departmental policies and procedures, (2) copes with various degrees of stress, (3) applies acceptable physical restraint, (4) conducts appropriate interviews and interrogations, and (5) is capable of writing acceptable offense reports. Special attention is directed toward determining whether a cadet is capable of making the proper decison to use deadly force. The misuse of deadly force results in automatic failure of the crime scene exercise. This emphasizes to the cadet the seriousness of the action he has taken. He must realize that the misuse of deadly force can not be erased.

In order to devise an appropriate measuring instrument for the crime scene program, evaluative criteria were developed. After analyzing the curriculum outlines for all of the relevant courses, consulting with veteran officers and detectives, and examining a number of offense reports, the critical elements were identified. These elements include: (1) Approach to the scene, (2) control of the scene, (3) control of the complainant and/or witnesses, (4) handling of the suspect, (5) procedural knowledge, (6) safety reactions, and (7) cooperation/support with partner. Together, these elements represent the essential characteristics present in most variations of robbery and burglary crime scenes.

Once these critical elements were identified, an appropriate rating scale was devised. The scale adopted was found in the field training and evaluation program (FTOP) originally developed by Michael Roberts, Ph. D. and the San Jose Police Department, San Jose, Calif. In 1977, the Houston Police Department adopted a modified version of Roberts' original FTOP.

The Rating Scale

After examining the evaluative scale used in the Houston program, it was decided that with suitable modifications, a similar scale would be used for the crime scene program. The use of a five-point Likert scale allowed the staff to identify five different degrees of performances. By specifically identifying these performance levels, the staff was able to enhance the objectivity of the evaluation process.

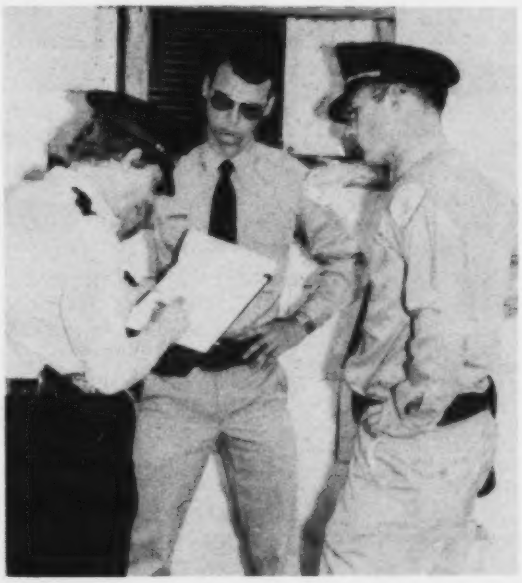
If one is to attain any degree of success in measuring performance skills during a crime scene exercise, it is necessary to devise an objective set of standardized guidelines. It is through the application of these guidelines that the objectivity of the evaluative process is enhanced even more. A considerable amount of time, therefore, was taken to devise an acceptable set of standardized guidelines for the crime scene program. The guidelines for the robbery and burglary scenes were taken primarily from a combination of interviews with experienced patrol officers, FTO's, and detectives, a review of all standards taught in the relevant courses, and through modifying the performance criteria used within the Houston FTOP.

Preparing the Evaluators

It is essential that all evaluators be trained in the art of evaluating "field performances." This is why the recruit training staff sought the assistance of the FTO's, who have received extensive training in the art of assessing performance skills. Due to this training and the fact that they are relatively unbiased observers, the FTO's have assumed the responsibility of evaluating the primary unit members.

Prior to the participation of FTO's in the crime scene program, additional training and consultation were provided. This was done in order to incorporate the use of the standardized guidelines in the crime scene program, in addition to reviewing and identifying those factors which can lead to biased evaluations. The evaluators were also given adequate time to learn and review the guidelines before being given

The cadet must decide instantly if this subject is the "complainant" or "suspect" at the scene of an "armed robbery in progress" call.



All crime scene exercises end with a critique of the cadets' performances.

the responsibility of evaluating performances displayed in experimental settings.

Failure to follow the basic guidelines would result in the evaluators applying their own personal standards of performance to the evaluation of cadet performances. Should unreliable standards become a part of the evaluation process, objectivity diminishes and subjectivity intensifies. Unrestrained subjectivity must be avoided if the program is to generate valid evaluative information.

As they progress through the crime scene exercise, each primary unit cadet member is evaluated separately by an attending FTO. Upon conclusion of the exercise, the FTO's individually critique the cadet's performance. This one-to-one interaction greatly enhances the learning process. When the critique has ended, the cadets return to service to complete the remainder of the crime scene format.

Conclusion

Additional evaluations are made throughout the program. Cadets, for example, are expected to perform specific tasks when serving as members of a backup unit. These tasks are examined by qualified academy training personnel to determine whether the behavior demonstrated by the cadets is considered acceptable. The cadets are also held responsible for completing the necessary paperwork that is generated from each crime scene exercise. Once the paperwork has been completed, it is evaluated.

This multifaceted evaluative approach of examining paperwork and primary and backup unit performances allows the training staff to determine how well the cadets perform a multitude of tasks and responsibilities. Through implementing the crime scene program, the staff is able to give consideration to as many aspects of a police officer's job as is possible. Each cadet, therefore, must be able to demonstrate that he or she is potentially capable of becoming a *complete* police officer. Every effort is made to replicate those conditions and demands that confront veteran officers.

The realism of the crime scene program is reflected in the facial expressions of the cadets during their rollcall session.

This realistic approach to training culminates with Houston's mock trial program. The actual mock trial exercise begins 1-2 weeks after the last set of crime scenes has been completed. It is conducted in a courtroom with veteran district attorneys and judges in their normal roles. Each trial is based on offense reports generated by the cadets from the crime scenes.

Through the mock trial, the cadets are able to tie together the components of a police officer's job. The importance of the previous exercises is shown during the trial procedure as the cadets are subjected to a direct examination and the strenuous demands of a thorough cross-examination. The strength of the cadet's case rests upon his ability to withstand the stress of this pressure, in addition to testifying in an accurate manner as to what actually occurred at the scene of their crime. Furthermore, this forces the cadet to realize the importance of completing an offense report in an accurate manner.

At the culmination of the mock trial, the cadets are able to visualize what the job of a police officer entails. At this point, they have been subjected to the problems of a police officer's job, and in each instance, have been told how well they performed their major responsibilities and tasks.

This approach to recruit training has proven successful in producing persons who are capable of becoming competent probationary police officers. Cadets come away from the crime scene program wanting more involvement, claiming it is an excellent learning experience and generally believing that they are about to engage in a professional that is demanding but also rewarding. **FBI**

For further information about the crime scene program, contact Sgt. Timothy N. Oettmeier, Recruit Training Division, Houston Police Department, Houston, Texas 77002, or call 713-222-4747.

Stabilizing the Transitory Fingerprint

Problems sometimes occur when photographing latent fingerprints developed through breath condensation. The visibility of the latent fingerprint is of such transitory nature that extended handling and exposure are not feasible.

This problem can be somewhat alleviated by lowering the temperature of the object by using a refrigerator or freezer. The difficulty encountered here is that the item being handled will not stay cool long enough for more than a few photographic exposures. While the results using this method are satisfactory, the method is somewhat awkward.

The introduction of a super coolant, such as dry ice, has been found to be a practical way to lower the temperature of the object to be photographed. Extreme care should be taken not to have any body contact with the coolant as injury may occur.

To stabilize and photograph a transitory fingerprint made visible through breath condensation and the use of a super coolant:

1) Place the coolant in a properly insulated container so that surrounding surfaces are not damaged from the extreme cold;
2) A working surface is made by placing a ductile material, such as glass or metal, over the container opening;
3) Place the object on the ductile cover. The latent fingerprint is made visible through breath condensation;
4) To stabilize the latent fingerprint, the surface of the object is covered immediately with a piece of glass or another optically clear material;
5) After a few seconds pass, excessive condensation should dissipate, leaving a visible and stabilized fingerprint; and
6) Photograph the print with a copy or fingerprint camera. The type of film, lighting, and exposure will vary according to the color of the background and the clarity of the fingerprint.

RETIREMENT

Is it the end or the beginning?

By CAPT. THOMAS AMMANN
and OFFICER PAUL MEYER
Police Division
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From recruit classes through various inservice training programs, police agencies place heavy emphasis on developing and maintaining their officers' proficiency in decisionmaking. However, it seems the agency often overlooks training at a very important point in an officer's career—RETIREMENT.

Recently, the Cincinnati Police Division was informed that a revised pension system for the State of Ohio would soon be implemented. This change would allow police officers to retire at age 48 rather than the previous 52 years of age.

A review of the division's personnel records indicated that of 939 sworn officers, 106 would be eligible to retire under the new pension system. Realizing the potentially large number of police officers facing retirement, a brainstorming session was conducted by the academy's staff to formulate a framework for a preretirement seminar.

Program Formulation

A survey of numerous police agencies revealed few programs for the potential retiree. The private sector was surveyed, and it was discovered that the more-progressive corporations conduct retirement programs on a limited basis.

A comprehensive program needed to be designed to assist the potential retiree. Areas to be covered in the program would include physical and psychological trauma associated with retirement, financial advice, need for wills and/or trusts, and second career orientation, as well as an explanation of the new system's benefits.

As the planning progressed, input was solicited from the Great Oaks Vocational School District of the State of Ohio, which was offering a retirement program. The Cincinnati Police Division's pension system liaison officer was also contacted for his ideas. After considerable discussion, a 12-hour preretirement seminar was formulated. It would be offered on an off-duty status three successive Wednesday nights, 4 hours each night, to any sworn member of the police division contemplating retirement within the next year.

Captain Ammann

Officer Meyer

Myron J. Leistler
Chief of Police

The police academy distributed questionnaires throughout the division inquiring as to whether personnel were interested in attending a preretirement seminar and whether spouses could accompany them. (This was considered an essential part of the program, since emotional and marital problems can result from retirement.) When the questionnaires were returned and the results tabulated, the figures revealed that out of 106 potential retirees, 37 sworn members and 18 spouses would attend.

As planning for the program progressed, it became apparent that retirement is often associated with a feeling of rejection and diminution of personal worth. One afternoon, while completing the course outline, an officer called the academy concerning a situation unrelated to the retirement seminar. After several minutes, discussion turned toward the proposed program. When asked why he decided not to attend the seminar, the officer offered several reasons. It appeared, however, that the real reason was his refusal to accept the fact he was old enough to retire. His parting comment was, "I'm too young to retire."

Program Content

The initial 4-hour segment of the seminar addressed the benefits of the recently revised pension system, as well as second career opportunities. The lecturer on pension system benefits was a police specialist who had served on the board of the Police and Firemen's Disability Pension Fund at local and State levels for over 20 years. A retired vice president of a large financial institution then discussed State-funded training programs and counseling available for those seeking a new career. He also discussed his personal adjustment to a second career.

The second evening consisted of the more technical monetary decisions facing the potential retiree—wills, trusts, and investments. An attorney, and long-time instructor at the University of Cincinnati, explained the advantage of having a current will. He also presented an informative session concerning the advantages of trusts. During the final session for the evening, an investment adviser from a local bank discussed the various options available when considering stocks, bonds, and retirement accounts, together with their effect on retirement income.

The final evening was divided into three parts—insurance, mental health, and physical health. The vice president of a local insurance company discussed using insurance to advantage after retirement. The next instructor was a psychiatrist who delved into the mental and emotional health of both the retiree and his spouse during the retirement years. He pointed out that the potential increase in time spent together can be a source of marital friction and stressed the need for outside hobbies and interests to occupy the newly acquired leisure time. The final portion of the evening, presented by a field representative fitness expert of the Cincinnati Recreation Commission, addressed the need for continued physical fitness. Health problems related to the aging process were specifically discussed.

Pension Specialist Jim Frohn explains to the class retirement requirements and options available under the new plan.

Investments for a Changing Economy

Numerous handouts were given to all participants to assist them in making correct decisions.

Midway through the program, several participants urged the police academy to consider asking a retired officer to share his view of retirement. As a result, on the final evening, a former sergeant agreed to an informal exchange on the subject.

As is the case with many of the programs presented by the police academy, the retirement seminar was recorded on 1/2-inch reel-to-reel video tape. The purpose of taping the program was twofold: To assist the academy staff in improving future programs and to provide a makeup class for anyone who may have missed a session. The tapes are available in the academy library for the convenience of the participants.

Evaluation

Each program presented at the Cincinnati Police Academy is evaluated by the attendees. Everyone is requested to rate the course on a scale of one (lowest) to five (highest). In addition to soliciting a numerical score, the evaluation forms provide space for additional comments and suggestions. This program was rated an overall 4.73.

Comments offered ranged from "an excellent program, very motivating and long overdue," to "all speakers deserve the highest praise for their presentations."

The preretirement seminar illustrated to the potential retiree that even beyond his active service, the police division is genuinely interested in his well-being. It also marked the first time that police officers and their spouses attended training classes together at the academy.

The written evaluations and informal exchanges among the seminar participants, instructors, and academy staff demonstrated the program's value. Consequently, the seminar will be offered on an annual basis in the future.

Conclusion

Thoughts of career development, particularly in law enforcement, involve consideration of promotions, transfers, details, and assignments. The critiques of this preretirement seminar have fostered the belief that retirement may be the most ignored phase of career development.

The Cincinnati Police Academy strongly urges both public and private sectors to consider expanding the concept of career development to include preparation for retirement. As one of the officer's wives stated in her evaluation, "This (seminar) was a very noble gesture on the part of the Police Division. My husband and I looked at retirement with reservation; now we look at it not as the end of a career, but the start of a new and different lifestyle."

FBI

The Announcement Requirement in Entry of Residential Premises

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

The Rule of Announcement

There are few more sensitive responsibilities of law enforcement than forcibly entering private homes to arrest or search. The rule of announcement, analyzed in this article, prescribes the requirements for such entries:

—Officers must announce identity, authority, and purpose before using force to enter premises
—Forcible entry is authorized only after an occupant's refusal of admittance
—Exceptions to the announcement rule exist in case of danger or other emergency circumstances
—Use of ruse or pretext, without force, generally is not prohibited by the announcement rule

A great number of arrests and searches occur inside residential premises. In such cases the physical act of obtaining entry into the residence is critical. The U.S. Supreme Court has held that "a lawful entry is the indispensable predicate of a reasonable search."[1] No matter how valid the warrant or proper its execution on the inside of a residence, unless there is compliance with the rule of announcement, evidence obtained as a result of that entry will be susceptible to suppression.

This article will examine the requirement of announcement under the Federal statute,[2] which is similar to the announcement statutes adopted by the majority of States.[3] To accomplish this, the development and application of the requirement will be traced from the English common law courts to modern Federal courts.

Historical Development

Early in the history of the English common law, there developed a precept that is often quoted in this country: "Every man's home is his castle."[4] This maxim arose as a result of English courts' concern with the sheriff's conduct in breaking open the doors of a residence to effect an arrest.[5] The courts feared that allowing the sheriff unrestricted freedom to force entry into a citizen's home would destroy a basic right of free men. William Pitt, Earl of Chatham, elaborated upon the common law rule before Parliament when he said:

> "The poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter, but the King of England cannot—all his force dares not cross the threshold of the ruined tenement."[6]

Notwithstanding the precept that every man's house is his castle, the English courts were cognizant that a total prohibition of forcible entry into a residence to effectuate an arrest would be unreasonably restrictive. They rec-

". . . absent extraordinary circumstances, announcement is required before entry to arrest, under codification of the common law rule."

Special Agent Jones

ognized that under certain circumstances, it would be necessary to grant law enforcement officers the authority to break open the doors of a dwelling to gain entry.[7] The courts were faced with the problem of balancing the government's duty to protect the state from criminal activity against the desire to safeguard the citizen's right to privacy within his home. The common law courts attempted to strike this balance by requiring that an officer not only have authority to demand entry but that he state this authority and purpose before forcing entry.[8] This rule was intended to protect the innocent citizen from the fright caused by a sheriff smashing in the door of a dwelling and to prevent damage to property by affording the occupant an opportunity to open his door voluntarily to allow admittance.

Early American courts perceived the value of the common law rule and fashioned their decisions after it.[9] In this century the announcement requirement has been codified in Federal law:

> "The officer may break open any outer or inner door or window of a house or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant." [10]

Although the Federal statute is limited to Federal law enforcement officers, a majority of States have adopted similar statutes.[11]

To date, the U.S. Supreme Court has not had the opportunity to decide whether the requirements of the Federal announcement statute, with regard to entry to search, are incorporated into the U.S. Constitution. Nor has the Court specifically held that the fourth amendment[12] places such constitutional restrictions on State entries to search. However, the Court has held that absent extraordinary circumstances, announcement is required before entry to arrest, under codification of the common law rule.[13] It is probably correct to infer that this rule is equally applicable to entry to search. As stated by Mr. Justice Brennan in his minority opinion in *Ker* v. *California*:

> "It was firmly established long before the adoption of the Bill of Rights that the fundamental liberty of the individual included protection against unannounced police entries." [14]
>
> "The protections of individual freedom carried into the Fourth Amendment . . . undoubtedly included this firmly established requirement of an announcement by police officers of purpose and authority before breaking into an individuals home." [15]

Due to the enactment of legislation by the majority of States that in general follows the Federal statutory rule,[16] the question of whether announcement has a constitutional basis in many instances has lost significance. Even in those States without an announcement statute, the officer must be vigilant, for the Constitution requires that the officer's actions in gaining entry must be reasonable.[17]

Reasonableness will depend on the facts and circumstances of each case, and absent circumstances that would excuse announcement, an entry without proper notice probably would be considered unreasonable.

Purposes of Statute

A principal guide to the interpretation of a statute is gained by analyzing its purpose. Because the Federal statute is typical of announcement statutes, a closer examination of it is useful. In *United States* v. *Phillips,* the court suggested that "at least three separate purposes are said to underlie Section 3109."[18]

The first purpose is the protection of an individual's right to privacy. This concept was expressed by Mr. Justice Brennan in *Miller* v. *United States*:

> "Congress codifying a tradition embedded in Anglo-American law has declared in Section 3109 the reverence of the law for the individual's right of privacy in his house. Every householder, the good and the bad, the guilty and the innocent, is entitled to the protection designed to secure the common interest against unlawful invasion of the house."[19]

Mr. Justice Brennan explained this position in *Ker* v. *California* as follows: "Innocent citizens should not suffer the shock, fright or embarrassment attendant upon an unannounced police intrusion."[20] Privacy is further enhanced through announcement by reducing the possibility that an officer might mistakenly force entry into a wrong residence.

The second purpose was stated in *Sabbath* v. *United States*, where the U.S. Supreme Court expressed a belief that compliance with the statute would reduce the possibility of violence:

> "[A]nother facet of the rule of announcement was generally to safeguard officers, who might be mistaken upon an unannounced intrusion into a home, for someone with no right to be there."[21]

The Court's concern is understandable upon examination of the entry in the *Sabbath* case. Federal agents had arrested a man named Jones in possession of cocaine. Jones claimed that the drugs belonged to Sabbath and agreed to assist the agents. The cocaine was returned to Jones, who proceeded to Sabbath's residence where he was admitted by a female occupant. The events were recounted as follows:

> "The . . . agents waited outside for 5 to 10 minutes, and then proceeded to the apartment door. One knocked, waited a few seconds, and, receiving no response, opened the unlocked door, and entered the apartment with his gun drawn."[22]

It is reasonable to think that an occupant of a residence might resort to violence to defend himself from an unannounced intruder who breaks open a locked door following only a knock. Moreover, a violent reaction by the occupant is more likely when the officers are wearing civilian clothing and are not immediately recognizable as law enforcement officers.

The third purpose was expressed in *Phillips,*[23] where the court stated that the announcement requirement prevents the needless destruction of property. It is obvious that no property is destroyed when an occupant voluntarily admits an officer after he has announced and stated his purpose for demanding entry. On the other hand, refusal of admittance could well result in a splintered door dangling from a broken frame as a result of the forced entry. Although an officer must act in a manner that will prevent harm to himself or others, he must remember that the person whose home he is about to enter (no matter how guilty he may appear) is afforded both constitutional and statutory protection from unreasonably offensive actions by the police.

Statutory Requirements

Four phrases form the keys to the Federal statute and similar components of State statutes:

1) "May break . . . door,"
2) "to execute a search warrant,"
3) "if, after notice of authority and purpose,"
4) "he is refused admittance."[24]

Analysis of these phrases offers insight as to the requirements of the rule of announcement.

The general rule is that whenever a law enforcement officer breaks into a residence, he must first comply with an announcement statute. Of significance is the term "break." In normal usage, break connotes a smashing or forcing,[25] but this limited interpretation of the term is not the one followed by the Federal courts.

". . . whenever a law enforcement officer breaks into a residence, he must first comply with an announcement statute."

In *Keiningham* v. *United States,* the court defined the terms as used in the Federal statute to mean "entering without permission." [26] The U.S. Supreme Court in *Sabbath* added: "[C]onsidering the purposes of Section 3109, it would indeed be a 'grudging application' to hold . . . that the use of 'force' is an indispensable element of the statute." [27] A useful analogy is the definition given the term in burglary cases:

> "What constitutes police 'breaking' seems to be the same as a burglary: lifting a latch, turning a door knob, unhooking a chain or hasp, removing a prop to, or pushing open a closed door of entrance to the house—even a closed screen door . . . is a breaking. . . ." [28]

It would appear that within the meaning of the Federal statute, a breaking is an unconsented entry into a dwelling by an officer exerting some physical action.

The courts' interpretation of the phrase "to execute a search warrant" has evolved not from the letter but from the spirit of the Federal statute. The U.S. Supreme Court has held that Federal agents must apply the standards of Section 3109 when executing a search warrant or when making an arrest, either with or without an arrest warrant.[29] The rationale supporting this determination is consistent with the English common law [30] and the early decisions in this country.[31] The three major purposes of the statute—restriction of unwarranted invasions of privacy, reduction of the propensity for violence, and lessening of the possibility of destruction of property—are the same whether the entry is to arrest or to search.

The phrase "if, after notice of authority and purpose" is perhaps the clearest of the keys. It means exactly what it says. Before breaking into an occupied residence,[32] the officer is required to announce his identity and state the justification for his demanding entry. Officers should be forewarned that because this requirement is clear cut, any deviation from it may well lead to a court declaring the entry illegal. The U.S. Supreme Court so held in *Miller,*[33] where the officer knocked and in a low voice said, "Police," without stating his purpose; in *Sabbath,*[34] where the agent knocked, waited a few seconds, and upon receiving no response, opened the unlocked door and entered; and in *Wong Sun* v. *United States,*[35] where the agent displayed his badge and identified himself to the occupant through a partially opened door, but failed to state his purpose before he pulled open the door and entered. The Court in *Miller* succinctly stated the requirement:

> "This rule seems to require notice in the form of an express announcement by the officers of their purpose for demanding admission. The burden of making an express announcement is certainly slight." [36]

Unlike the notice of authority and purpose clause, the phrase requiring that "he is refused admittance" is not construed so literally by the courts.[37] Clearly, if an officer complies with the notice requirement and the occupant of the residence vocally refuses to allow entry, the officer's immediate forcible entry into the residence to effectuate a lawful arrest or search will not violate the statute. However, clear refusals by the occupant are not always forthcoming.[38] In many instances, there may be no response to the officer's announcement,[39] or a "stall" [40] may be employed by the occupant to allow him time to destroy evidence or escape. In such cases, so long as the officer has reason to believe that there is someone inside and that this person has received notice of his presence, the officer may break in after allowing the occupant a reasonable time to respond to his demand for admittance. What constitutes a reasonable time is determined by the facts of each case,[41] and exigent circumstances, such as danger of physical harm, destruction of evidence, or escape, are important in making that determination.[42]

No Announcement Required

Absent extraordinary circumstances the courts have been uncompromising in requiring law enforcement officers to comply with the announcement statute before breaking into a residence.[43] However, decisions enforcing the statute have recognized that under certain circumstances noncompliance with the requirements of the statute will be allowed. Mr. Justice Brennan, in his minority opinion in *Ker* v. *California,* listed three categories of circumstances which would excuse the requirement of announcement.[44]

First, announcement is not required "where the persons within already know of the officer's authority and purpose. . . ." [45] This statement is supported by the earlier decision of *Miller* v. *United States,* where the Court hypothesized the possibility that "without an express announcement of purpose, the facts known to officers would justify them in being virtually certain

". . . within the meaning of the Federal statute, a breaking is an unconsented entry into a dwelling by an officer exerting some physical action."

that the (occupant) already knows their purpose so that an announcement would be a useless gesture."[46] In *United States* v. *Wylie,* a Federal appellate court upheld a conviction where officers having announced, "Police," but without stating their purpose for demanding entry, entered a suspect's house only minutes after a purse snatching.[47] The court stated that further announcement would have been a "useless gesture."[48]

Second, announcement is not required "where the officers are justified in the belief that persons within are in imminent peril of bodily harm. . . ."[49] The Court, in *Sabbath* v. *United States,* recognized that this exception included a justifiable belief that the subject was "armed or might resist arrest" and that some harm might have come to the officer or someone with him.[50]

Third, announcement is not necessary "where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officer in the belief that an escape or the destruction of evidence is being attempted."[51] This exception could be of value in such investigations as bookmaking and narcotics "where evidence could be quickly and easily destroyed."[52]

While exceptions to the general rule are of obvious importance to the officer, he must not allow them to swallow the rule. He must be sure of the underlying facts and circumstances which permit him to enter without complying with the statute. As with the determination of probable cause, a court is concerned with the facts and circumstances within the officer's knowledge at the moment he makes the decision to enter. An error in judgment on the officer's part may result in a court holding unjustified his noncompliance with the statute, and as a result, any evidence seized may be suppressed or an arrest invalidated. It is of paramount importance that the basis for an officer's reliance on an exception to the rule be documented.[53] The courts will be reluctant to accept the officer's undocumented memory of the facts several months after the event when the matter is brought to trial or raised at a suppression hearing.

Ruse Entries

Due to unforeseeable situations which often confront modern law enforcement, officers may be unable to comply with the announcement statute or bring their actions within the exceptions to it. The only feasible alternative available to an officer seeking a peaceful entry may be to deceive the occupant into permitting the officer to enter the premises.

Police occasionally have employed a ruse to gain entry into a residence in order to effectuate an arrest or search. Stealth and strategy can be successfully employed in this manner;[54] however, deliberate care must be taken by the officer to insure that his actions remain within the law. A legal hurdle that deceptive tactics, in the course of gaining entry, often fail to clear is the announcement requirement. An error in judgment by the officer with regard to this requirement offers the court no choice but to exclude any evidence obtained as a result of the tainted entry.[55]

Although the U.S. Supreme Court has not ruled on the use of a ruse or pretext to gain entry, the majority of lower Federal courts which have considered the question have held that entries obtained in this manner are not barred by the announcement statute. An analysis of the leading decisions of the U.S. courts of appeals, concerning deceptive entries to make an immediate arrest or search of the premises, offers the law enforcement officer considerable insight into the lawful and effective use of deception to make entry without announcement.[56]

The occupant's reaction to a ruse can be as varied as his imagination. If the ruse is successful in getting the occupant to the door, the officer must be prepared to deal quickly with the numerous situations which can occur. In general, there are three types of responses which are favorable to the officer: The occupant, without inviting the officer inside, can crack the door to see who is there; he can open the door fully without inviting entry; or he can invite the officer inside. To be prepared for each of these situations, the officer must understand the court decisions relating to them.

The most common reaction to a knock is for the occupant to crack the door a few inches to see who is there. In *Jones* v. *United States,*[57] a Federal appellate decision, detectives went to Jones' apartment to execute a search warrant for narcotics. The officers had the building janitor knock on Jones' door. When a voice from within asked who was there, the janitor responded, "Janitor." Jones then opened the door 3 or 4 inches and a detective thrust in his badge and stated that he had a search warrant. Jones attempted to flee and the officers broke open the door.

". . . a court is concerned with the facts and circumstances within the officer's knowledge at the moment he makes the decision to enter."

Jones vividly demonstrates how a ruse alone can fail to get the officer inside, and in fact, leaves him in a situation where he must comply with the rule requiring announcement before entering. When Jones realized that the janitor was not alone, the ruse had ended. The entry was lawful because the officer identified himself and stated his purpose before entering.[58] The ruse, however, was successful to the extent that the door was partially opened and the occupant was placed in a position where he could be seen by the officer. This in itself was of great benefit to the officer because Jones could not be at the door and destroying narcotics at the same time.

If the ruse is more convincing or the occupant less wary, the door may be opened wide to the officer. In *Ponce* v. *Craven*,[59] officers had the manager of a motel announce that there was a telephone call for one of the occupants. When the occupant opened the door to go to the phone, the officers immediately entered and arrested the suspect. Although this case is concerned with the applicability of the California announcement statute,[60] the court's reasoning would appear to be equally appropriate to such statutes in other jurisdictions:

> "[O]nly if police resort to breaking must they announce their purpose. The employment of a ruse which results in the occupant of a dwelling voluntarily opening the door and thereby allowing officers to enter without announcement of purpose is not a breaking. . . ."[61]

The courts generally have not required the officer to identify himself and state his purpose before entering when the door has been opened wide by the occupant.[62] In such cases there is no breaking, the occupant is present at the door, and by opening the door, there is an inference of consent to the entry. However, it is good practice, when circumstances permit, for the officer to state his identity and purpose once the door has been opened. Such an announcement could be accomplished as the officer enters through the doorway.

For the officer attempting to gain entry into a subject's residence by use of a ruse, the hoped-for result is an invitation by the occupant for the officer to enter. In *Smith* v. *United States*,[63] Federal agents posed as telephone repairmen and were voluntarily admitted by the defendant. The court held that because the defendant voluntarily admitted the officers, there was no violation of the announcement statute when they arrested him and searched his residence. The key to any such entry is that it must be pursuant to a voluntary invitation by the occupant. If the ruse is followed by any force constituting a breaking, the entry will be held in violation of the announcement requirement.[64]

Summary

Law enforcement officers must remember that the statutory rule of announcement with regard to entry into a residence requires that the officer knock, announce his identity, and state his purpose before forcing entry. There are three exceptions to this rule. They excuse the officer's noncompliance with the announcement requirement before forcible entry: (1) If the person within knows of the officer's authority and purpose; (2) where the officer is justified in believing that announcement would result in imminent peril or bodily harm; or (3) where the occupant, if made aware of the officer's presence, would attempt to destroy evidence or escape.

Under certain conditions deception is an acceptable approach. An officer relying on a ruse must be voluntarily admitted by the occupant of the residence without resorting to a "breaking." Even where the ruse is successful in obtaining a peaceful entry, sound practice would suggest that an announcement of identity and purpose be made at the earliest opportunity.

Officers must be mindful that their actions have to be reasonable under the circumstances of the particular case. The courts will not allow overzealous police action to defeat the purposes of the announcement statutes. Care should be taken to gather the facts, plan the entry, and insure that reason guides the actions. FBI

Footnotes

[1] *Ker* v. *California*, 374 U.S. 23, 53 (1963).

[2] 18 U.S.C. Section 3109 (1971).

[3] ALA. CODE tit. 15, Section 155 (1958); ALAS. CODE CRIM. PRO. Section 12.25.150 (1972); ARIZ. REV. STAT. ANN. Section 13-1411 (1956); ARK. STAT. ANN. Section 43-414 (1964); CAL. PENAL CODE Section 844 (West 1972); C.Z. CODE tit. 6 Section 3741 (1963), FLA. STAT. ANN. Section 901-19(1) (Supp. 1973); GA. CODE ANN. Section 27-306 (1966); IDAHO CODE Section 19-611 (1948); IND. STAT. ANN. Section 9-1009 (Burns 1956); IOWA CODE ANN. Section 755.9 (1950); KAN. STAT. ANN. Section 62-1819 (1964); KY. REV. STAT. Section 70.078 (1971); LA. CODE CRIM. PRO. ANN. art. 224 (West 1967); MICH. STAT. ANN. Section 28.880 (1972); MINN. STAT. ANN. Section 629.34 (1947); MISS. CODE CRIM. PRO. tit. 99 Section 99-3-11 (1973); MO. ANN. STAT. Section 544.200 (1953); NEB. REV. STAT. Section 29-411 (1965); NEV. REV. STAT. Section 171.275 (1967); N.Y. CODE CRIM. PRO. Section 120.80(4) (McKinney 1971); N.C. GEN. STAT. Section 15-44 (1965); N.D. CENT. CODE ANN. Section 29-06-14 (1960); OHIO REV. CODE ANN. tit. 29, Section 2935.12 (page supp. 1972); OKLA. STAT ANN. tit. 22, Section 194 (1969); ORE. REV. STAT. tit. 14, Section 133.290 (1971); S.C. CODE ANN. tit. 53, Section 53-198 (1962); S.D. COMPILED LAWS ANN. tit. 23, Section 15-14 (1967); TENN. CODE ANN. tit. 40, Section 807 (1955); TEX. CODE CRIM. PRO. ANN. art 18.18 (Vernon 1966); UTAH CODE ANN. tit. 77, Section 13-12 (1953); V.I. CODE ANN. Section 3566 (1967); WASH. REV. CODE ANN. Section 10.31.040 (1961); WYO. STAT. ANN. Section 7-165 (1959).

[4] Hansard, *Parliamentary History of England* (1813), vol. 15, col. 1307 (this statement is imputed to William Pitt, Earl of Chatham, during a debate in Parliament concerning searches incident to a tax on cider, March 1763).

[5] 13th Yearbook of Edward IV (1461-1483) at folio 9 (held breaking of door by sheriff to arrest in civil suit in debt or trespass unlawful).

[6] *The Oxford Dictionary of Quotations* (2d ed. 1953) 379.

[7] 1 Hale, Pleas of the Crown, 583 (1736): "A man, that arrests upon suspicion of felony may break open doors, if the party refuse upon demand to open them. . . ."

[8] *Semayne's Case*, 77 Eng. Rep. 194 (K.B. 1603): "In all cases where the King is a party the sheriff, (if the doors be not open) may break the party's house, either to arrest him, or do other execution of the King's process, if otherwise he cannot enter. But before he breaks it, he ought to signify the cause of his coming and to make requests to open the door."

[9] *Barnard* v. *Bartlett*, 10 Cush. Mass. 501, 502 (1852): "The maxim of law that every man's house is his castle . . . has not the effect to restrain an officer of the law from breaking and entering a dwelling house for the purpose of serving a criminal process upon the owner. In such case the house of the party is no sanctuary for him, and the same may be forcibly entered by such officer after a proper notification of the purpose of the entry, and a demand upon the inmates to open the house, and a refusal by them to do so."

[10] 18 U.S.C. Section 3109 (1971), compare 18 U.S.C. Section 3109 with *Semayne's Case*, supra note 8, and *Barnard*, supra note 9.

[11] *Supra* note 3.

[12] *U.S. Const. amend. IV* states: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[13] *Supra* note 1.

[14] *Id.* at 47.

[15] *Id.* at 48.

[16] *Supra* note 3.

[17] *Ker, supra* note 1 at 38: "[T]he method of entering the home may offend federal standards of reasonableness and therefore vitiate the legality of an accompanying search."

[18] 497 F. 2d 1131, 1133, (9th Cir. 1974).

[19] 357 U.S. 301, 313 (1958).

[20] *Supra* note 1, at 57.

[21] *Sabbath* v. *United States*, 391 U.S. 585, 589 (1968).

[22] *Id.* at 587.

[23] *Supra* note 18, at 1133.

[24] *Supra* note 2.

[25] *Webster's New World Dictionary*, William Collins and World Publishing Co., Inc., 1977.

[26] 287 F. 2d 126, 130 (D.C. Cir 1960), the court continued: "We think that a 'peaceful' entry which does not violate the provisions of Section 3109 must be a permissive one, and not merely one which does not result in a breaking of part of the house."

[27] *Supra* note 21, at 589, the court continued: "[T]o be sure, the statute uses the phrase 'break open' and that connotes some use of force. But linguistic analysis seldom is adequate when a statute is designed to incorporate fundamental values and the ongoing development of the common law."

[28] Wilgus, *Arrest Without a Warrant*, 22 Mich. L. Rev. 798, 806 (1924).

[29] *Miller, supra* note 19, at 309: "It applies as the Government here, concedes, whether the arrest is to be made by virtue of a warrant, or when officers are authorized to make an arrest for a felony without a warrant." *Id.* at 306 "[T]he validity of the entry to execute the arrest without warrant must be tested by criteria identical with those embodied in 18 U.S.C. Section 3109, which deals with entry to execute a search warrant."

[30] *Supra* note 8.

[31] *Supra* note 9.

[32] *United States* v. *Agrusa*, 541 F. 2d 690, 698 (8th Cir. 1976): "[U]nannounced and forcible entries into vacant premises, even homes, in order to conduct a search, are constitutional in absence of exigent circumstances, provided that the search and seizure is pursuant to warrant and reasonable under the circumstances."

[33] *Supra* note 19.

[34] *Supra* note 21.

[35] 371 U.S. 471 (1963).

[36] *Supra* note 19, at 309.

[37] *United States* v. *Allende*, 486 F. 2d 1351, 1353 (9th Cir. 1973): "There need be no affirmative refusal of admittance under the statute. The refusal may be implied."

[38] *Masiello* v. *United States*, 317 F. 2d 121, 122 (D.C. Cir 1963): "Indeed it would be an unusual case coming before the courts where an occupant affirmatively 'refused admittance' or otherwise made his refusal known verbally. . . ."

[39] *United States* v. *Hobson*, 519 F. 2d 765 (9th Cir. 1975); in this case the Federal agents were seeking a heavily armed individual who had shortly before killed an unarmed guard. The court found the facts to be: "With respect to the entry, the officers banged loudly at . . . (the) door and yelled, 'FBI—Open the door.' They waited 10 to 30 seconds without response and broke in the bedroom window to gain admittance." Considering the circumstances, the court held: "With all of this in mind, the officers would have been foolhardly to wait any longer than they did." *Id.* at 776.

[40] *United States* v. *Valenzuela*, 596 F. 2d 824 (9th Cir. 1979).

[41] *United States* v. *Jackson*, 585 F. 2d 653, 662 (4th Cir. 1978): "It is the rule that the time which must elapse after knocking and announcing their identity and purpose by the searching officers before breaking and entering varies with the exigences of each case."

[42] *United States* v. *Luster*, 342 F. 2d 763 (6th Cir. 1975) (agents sought to arrest a suspect on narcotics charge, their announcement at door resulted in muffled screams from inside). The court held, "The circumstances called for quick action. . . ." *Id.* at 766.

[43] Compare *Miller, supra* note 19, at 313: "Because the petitioner did not receive that notice before the officers broke the door to invade his home, the arrest was unlawful, and the evidence seized should have been suppressed;" with *Wong Sun, supra*, note 35 at 485: "Thus verbal evidence which derives so immediately from an unlawful entry and an unauthorized arrest as the officer's action in the present case is no less the 'fruit' "; and *Ker, supra* note 1 at 47: "Even if probable cause exists for the arrest of a person within, the Fourth Amendment is violated by an unannounced police intrusion into a private home . . . except (where exigent circumstances relieve the officer from the necessity of announcement)." (parenthetical added)

[44] *Supra* note 1, at 47.

Similar exigent circumstances were recognized in *Miller* v. *United States*, 357 U.S. 301, 309 (1958).

[45] *Ker, supra* note 1, at 47.

[46] *Supra* note 19, at 310.

[47] 462 F. 2d 1178 (D.C. Cir. 1972).

[48] *Id.* at 1188.

[49] *Ker, supra* note 1, at 47.

[50] *Supra* note 21, at 591.

[51] *Ker, supra* note 1, at 47. See also *United States* v. *Bethea*, 598 F. 2d 331 (4th Cir. 1979) (Officers broke into front door of residence to arrest subject who was attempting to flee).

[52] *Id.* at 40.

[53] *United States* v. *Smith*, 520 F. 2d 74 (D.C. Cir. 1975).

[54] *Leahy* v. *United States*, 272 F. 2d 487, 490 (9th Cir. 1960): "There is no constitutional mandate forbidding the use of deception in executing a valid arrest warrant."

[55] *Gatewood* v. *United States*, 209 F. 2d 789, 790 (D.C. Cir. 1953): "[T]he breaking of the door was unlawful, the presence of the officers in the apartment was unlawful, and so the arrest was unlawful."

[56] See *Jones* v. *United States*, *infra* note 57; *Ponce* v. *Craven*, infra note 59; and *Smith* v. *United States*, infra note 63.

[57] 304 F. 2d 381 (D.C. Cir. 1962).

[58] *Id.* at 384. The appellate court quoted from the trial judge's findings of fact and conclusions of law in affirming the conviction:

"I think the officer was entirely within the law and within the proprieties. After all, the officer knew that he was entering a headquarters for the sale of narcotics. He feared, quite properly, that when the defendant was running for the bathroom he might have thrown some incriminating narcotics down the drain. I do not think the officer was under any obligation to accord that opportunity to the defendant. In fact, if he had accorded it, I think he would have been guilty of dereliction of duty. I think he complied with the requirements of 3109. He identified himself, he showed the search warrant, and of course, he acted very rapidly immediately after that in order to prevent the destruction of it.

"We have to remember that, after all, the officers are there to protect the community.

"I find as a fact and conclude as a matter of law that the warrant was properly executed . . . that he had a search warrant and was not admitted." (footnotes omitted)

See also *United States* v. *Seelig*, 498 F. 2d 109 (5th Cir. 1974) (Federal agent knocked and upon occupant's inquiry, responded quietly, "Cliff." Occupant opened the door slightly and agent identified himself, displayed his badge and shoved the door open and entered); and *United States* v. *Syler*, 430 F. 2d 68 (7th Cir. 1970) (a Federal agent knocked at the door and shouted, "Gas man." When the occupant unlatched the screen door and began opening it, the agent pulled it open farther and as he entered, he announced his identity and stated his purpose).

[59] 409 F. 2d 621 (9th Cir. 1969).

[60] *Supra* note 3.

[61] *Ponce, supra* note 59, at 626.

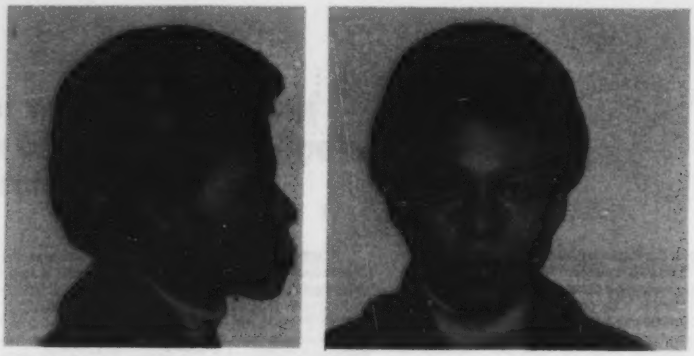
The court continued: "The same rule has been applied in interpreting the analogous Federal statute 18 U.S.C. [Section] 3109. . . ."

[62] Compare *Ponce, supra* note 60, with *United States* v. *Raines*, 536 F. 2d 796, 799 (8th Cir. 1976) (Federal agent gained access to subject's residence by claiming to be a friend of a previously arrested person associated with occupant); *United States* v. *DeFeis*, 530 F. 2d 14, 15 (5th Cir. 1976) (agents accompanied informant to door and rushed in when subject opened door to allow informant to enter); *United States* v. *Hill*, 508 F. 2d 345 (5th Cir. 1975) (agent claimed to be insurance salesman); and *United States* v. *Beale*, 445 F. 2d 977 (5th Cir. 1971) (agents gained entry to subject's motel room by having manager knock).

[63] 357 F. 2d 486 (5th Cir. 1966).

[64] *Supra* note 54, at 489.

WANTED BY THE FBI



Photographs taken 1979.

Joanne Deborah Chesimard

Joanne Deborah Chesimard, also known as Joanne Deborah Byron Chesimard, Joanne Byron, Joan Chesimard, Joanne Chesimard, Joanne Debra Chesimard, Joanne Chesterman, Joan Davis, Joanne Davis, Justine Henderson, Sister Love, Barbara Odoms, Assata Shakur, and others.

Wanted for:

Interstate flight—Murder.

The Crime

Chesimard, who is being sought as an escapee from custody, was at the time of escape serving a life sentence for the shooting murder of a New Jersey State trooper. She is reported to be a member of a revolutionary organization which has an extensive history of criminal activity involving violence.

A Federal warrant was issued on November 3, 1979, at Newark, N.J.

Criminal Record

Chesimard has been convicted of murder.

Description

Age	33, born July 16, 1947, New York, N.Y. (not supported by birth records)
Height	5′6″.
Weight	127 to 138 pounds.
Build	Slender.
Hair	Black.
Eyes	Maroon.
Complexion	Medium.
Race	Negro.
Nationality	American.
Scars and Marks	Bullet scars on abdomen, chest, left shoulder, and underside of right arm; round scar on left knee.
Occupations	Tutor, writer.
Remarks	May be wearing Afro hairstyle.
Social Security No. Used	051-38-5131.
FBI No.	11 102 J7.

Classification Data:

NCIC Classification:

AAAAAA0711AAAAAA0409

Fingerprint Classification:

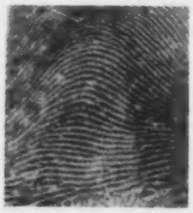
$$\frac{7\ 1\ \text{aAa}\ 11}{1\ \text{aAa}}$$

Caution

Chesimard should be considered armed, extremely dangerous, and an escape risk.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.



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Decline in Number of Officers Killed

Preliminary statistics compiled by the FBI's Uniform Crime Reports reveal that 50 law enforcement officers, representing local, county, State, and Federal agencies across the Nation and in Puerto Rico, were feloniously killed during the first 6 months of 1980. The number of officers killed declined by 12 percent when compared to those slain during the same period of 1979.

A geographic breakdown shows that 23 officers were killed in the Southern States, 10 in the Western States, 8 in the Northeastern States, 7 in the North Central States, and 2 in Puerto Rico.

Twelve officers were slain while enforcing traffic laws. Eight were killed while attempting to thwart robberies or in the pursuit of robbery suspects; 3 while attempting arrests of burglary suspects; and 11 while attempting to effect arrests for other crimes. Seven officers were slain responding to disturbance calls; 5 upon investigating suspicious persons and circumstances; and 2 while handling mentally deranged persons. An additional two officers died in ambush-type attacks.

Firearms predominated as the weapons employed to kill officers, with 47 deaths resulting from their use. Handguns were the murder weapons in 33 of the incidents; rifles in 8; and shotguns in 6. Of the remaining three officers, two were killed with vehicles and one with a knife. Seven of the slain officers were killed with their own revolvers.

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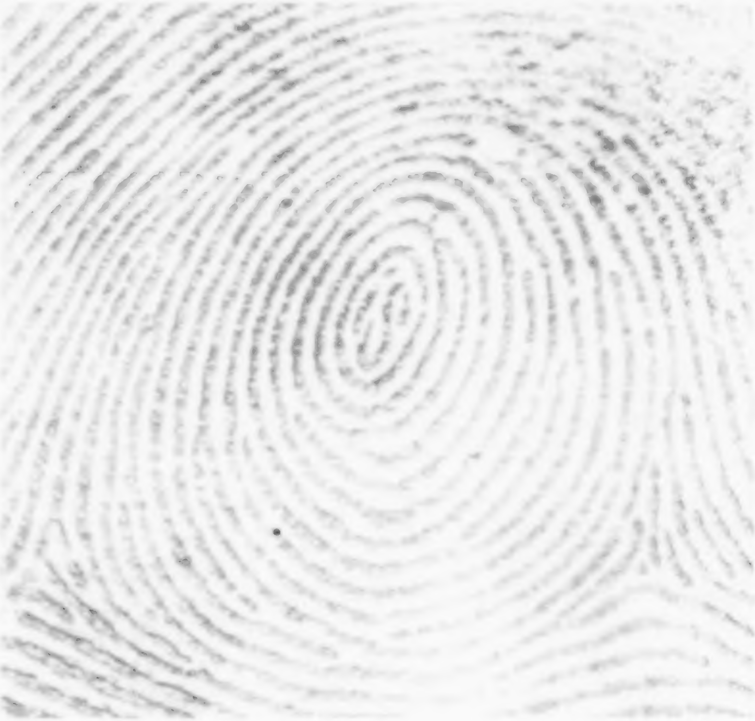

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FBI LAW ENFORCEMENT BULLETIN

NOVEMBER 19

FBI LAW ENFORCEMENT BULLETIN

NOVEMBER 1980, VOLUME 49, NUMBER 11

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The Cover: The Newberg, Oreg., Police Department sends a 6'4" sergeant to kindergarten to explain that being a policeman is a big job. Photograph by Bob Ellis, "Oregonian," Portland, Oreg.

Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through December 28, 1983.

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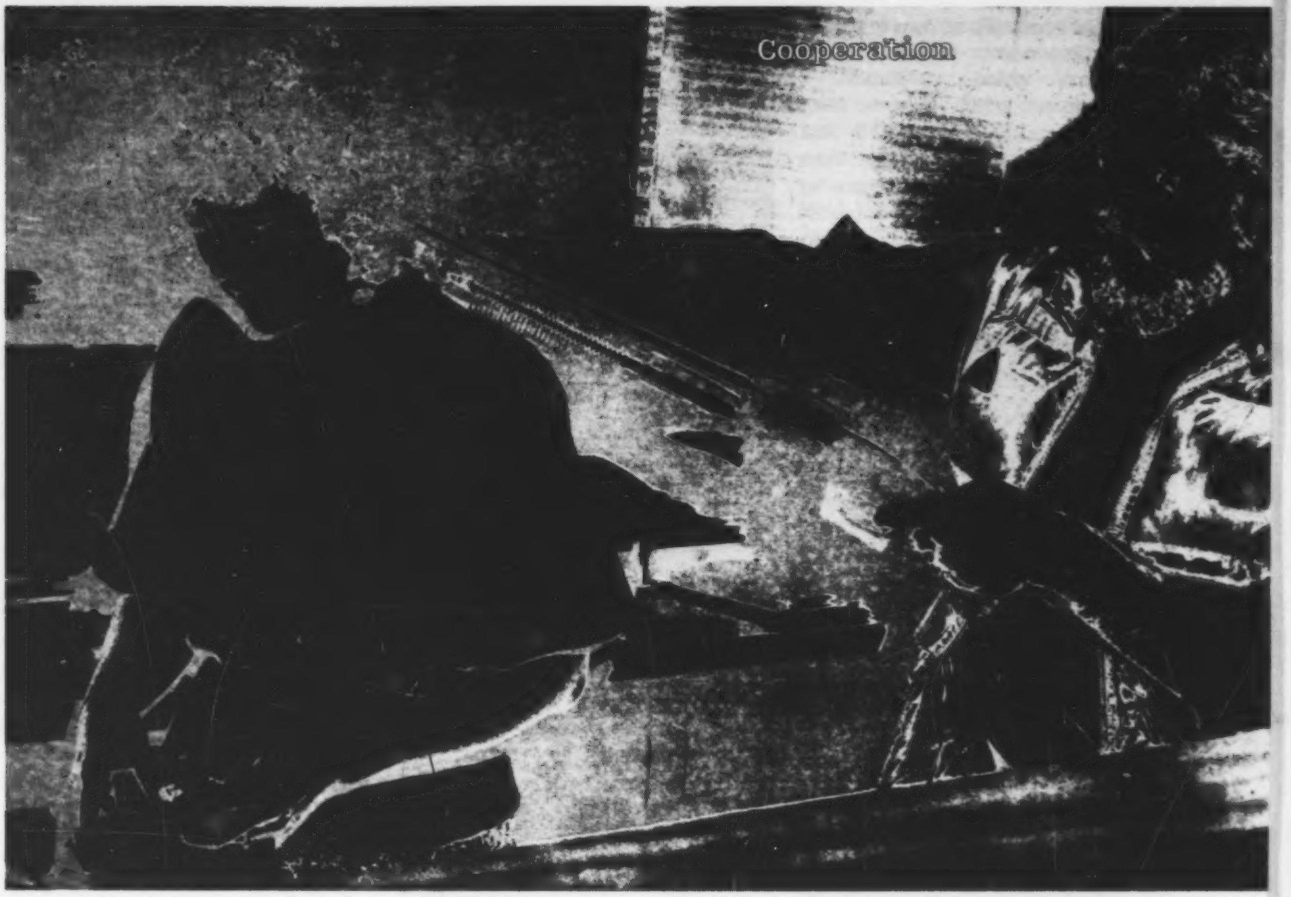


Spokane's Robbery Education Program

By John D. Moore

Crime Prevention Officer/Program Coordinator
Police Department
Spokane, Wash.

Armed robbery is one of the most frightening experiences an employee could possibly encounter while working for almost any type of business. The crime prevention unit of the Spokane Police Department has developed an armed robbery education program for banks, which has also been adapted successfully for employees of high-risk retail establishments.

The program is designed to educate employees in their current work environment, breaking away from the sterile settings of auditoriums and classrooms. It was believed, upon implementation of the program, that environmental design characteristics inherent in the structure of the building can be of benefit to employees, if they are aware of them and know how to use them. Therefore, this program

Robert D. Panther
Chief of Police

goes right to them, in their work location, where the actual robbery would take place.

The current program addresses two goals. The first is to educate employees and managers of banks and/or high-risk retail businesses to the dangers inherent in an actual robbery situation. The second goal is to improve the abilities of affected personnel in describing suspects and securing evidence and to familiarize them with the investigative needs of law enforcement officers.

To initiate the program in a particular bank or retail business, the law enforcement coordinator meets with the manager, and in some cases, the security officer. This pre-program organization is necessary to establish a convenient time for the program, either before the business opens or after it closes so that no customers are present. This will ensure total control and safety during the program. The manager is instructed by the coordinator to inform all employees of the program, in which a "mock robbery" will be staged. Pre-program organization also includes establishing a schedule of mock robbery programs to be distributed to all local law enforcement agencies and personnel involved in the program, so they can organize their schedule accordingly. The alarm company *must* be notified of the time and date and be contacted again on the actual day before the robbery program commences.

The law enforcement coordinator and the "bad guys" should arrive at the "robbery" site a half hour before the employees. After being admitted by the manager or security officer, the bad guys familiarize themselves with the layout of the business and then find a place to hide until it is time for the "holdup." Employees do not see the bad guys until the actual exercise takes place, since prior visual contact between employees and the robbers will drastically affect the description phase of the exercise.

In any program where a mock robbery is used, a uniformed police officer is required to be present before, during, and after the exercise to assist in securing the building and to assure any passerby that the program is a planned security exercise. It should be noted that during 61 such programs presented in Spokane thus far, the law enforcement coordinator has had to use more than one officer, based upon the size of the building, location of doors, windows, etc. Security is extremely important during the exercise, and a program should not be attempted without an adequate number of uniformed police officers. A marked patrol vehicle, parked in the most prominent or visible place, is also important for security on the outside of the bank or business.

The actual robbery education program begins with a 25-minute employee briefing by the law enforcement coordinator. All employees are informed of the program's educational intent and that a mock robbery will be performed. Officials stress that nobody will be hurt and ask employees to act as they would in a real situation. To familiarize the employees with guns used in holdups, weapons are displayed and the differences between

Officer Moore (the author) addresses the participants prior to the exercise.

should always be discussed before the robbery exercise commences.

Mandatory safety precautions must be taken during the program itself. Employees and any observers must be asked if there are any firearms or weapons in the building, and any weapons must be secured by the coordinator before the exercise begins. Employees are automatically exempted from participating if they have any medical condition (heart condition, pregnancies, etc.). Any employee not wanting to participate is also exempted, and all observers or exempt employees are assigned to a neutral or nonaffected area of the business. They may watch the exercise, however, and not become part of the mock robbery. The coordinator should inform the robbers of the location of the neutral area prior to the start of the exercise.

After the briefing and confirmation that the alarm company was notified, the employees return to their work areas. The exercise, basically, is known as a "total branch holdup," in which the bad guys take control of the whole business and involve everyone. If any employee is able to activate the alarm, they are to do so, as if the robbery were real. It becomes obvious to many employees how simple tasks suddenly become difficult to perform under the circumstances.

The exercise commences with the appearance of the bad guys who, very convincingly, holdup the bank or business. The holdup is usually over in less than 2 minutes, and the bad guys exit the bank area and return to the original place of concealment. At no time do the robbers leave the building and no money is taken from the building.

The holdup begins with the robbers entering the work area, armed with revolvers or sawed-off shotguns. There is shooting and blanks are used in the weapons. At no time are any weapons fired at or near an employee. Mock robberies have been done without gunfire, although it tends to add an authentic touch to the robbery. It definitely adds to the intensity of the exercise.

During the holdup, the coordinator's responsibility is to evaluate the

Security is provided during the course of the program. Uniformed officers are necessary to assure customers the bank is not open, the exercise is not a real robbery, and that this is just a training session.

them, i.e., automatics, revolvers, sawed-off shotguns, etc., explained. Tips on how to respond to commands in a holdup and how to observe, describe, and remember descriptions are given. Also discussed are suggestions for using design characteristics of the building to enhance their abilities to describe a holdup man. The design characteristics discussed will attempt to aid in the description of robbery suspects. The height of countertops, location of signs, and tape markers on doors are some of the things mentioned by the coordinator.

Employees are also urged to remember exactly what was said during the robbery. Words, phrases, etc., should be written down, so that a law enforcement investigator will know what was said during the incident. Additional time may be allotted for instruction on how to adequately prepare their building for a holdup. Also included is a discussion on protecting evidence for the investigator. This is a major part of the critique process and performance of the employees and observe their reactions. There are occasions when the coordinator has had to reassure an employee who may have been startled by the frenzied activity. The coordinator's evaluation continues after the holdup as the employees secure the building and protect any evidence which may be present. All employees are given time to fill out description forms provided by the bank management. There have been some cases, when dealing with retail businesses, that description forms are not available. On those occasions the coordinator should provide sample forms for the employees to use. Employees are given a shorter period of time to fill out the forms than would normally be given because of the limited amount of time available. After this is done, they are reassembled in the area where the coordinator addressed them before the holdup. The coordinator can also ask the employees to estimate the total time of the holdup and should have each group of people in the bank or business mark their forms differently. For example, the victim teller should mark her form with a large V, other tellers with an X, others at desks with a Y, and so on. This makes it easier to show how different groups and areas will pick up different characteristics of the holdup men.

The employees are then reintroduced to the robbers, so they can see how they did on their descriptions. The holdup men come into the assembly area and give a brief physical description of themselves. The weapons used during the holdup exercise are now shown to the employees, and the coordinator reviews all description forms, comparing them to the actual robbers. This part of the program demonstrates what people can, and in actuality, do recall during a period of stress. Many characteristics are usually noted by the employee, and they re-emphasize the fact that human beings, when exposed to the same situation, will see and remember things differently.

After the description session with the holdup men, the mock robbery is critiqued. The coordinator brings out weaknesses and strong points during

The law enforcement coordinator displays different types of firearms before the exercise begins.

A cable TV employee "robbing" a bank employee.

After the exercise, the "robbers" come back out to show the firearms used in the "robbery" and assist in the critique of the exercise itself.

the fake robbery, and the holdup men also give advice to the employees regarding their observations during the exercise. Generally, time is given for questions and answers before the program ends. All uniformed police officers are then advised they can leave the area and return to regular duty. It must be emphasized how important it is to have uniformed police officers providing security during the actual exercise, especially when firearms are being displayed by the coordinator or his bad guys.

The overall program, as it is presently put together, is an example of a community effort which shows up in two major areas. First, all businesses and banks are sent a questionnaire 1 week after the exercise so they can critique the mock robbery. If they feel any changes are needed, they are asked to comment on them, as well as safety precautions, etc. The questionnaire is returned to the law enforcement coordinator so any necessary changes can be made. These questionnaires have been responsible for many changes which continue to point toward a very successful program. Second, a local cable television company has provided their expertise and one of their employees to assist in robbery education, as well as in the actual mock robberies. These two factors have made the Spokane Police Department robbery education program a continuing success.

If an employee or business is involved in an actual armed robbery after completing the education program, they are interviewed to determine if the training helped them prepare for the real thing. Patrol division officers, as well as detective division officers involved in the incident, are also consulted as to their reactions on how the training helped the employee or business. All this material is kept for documentation of the education program.

The latest robbery incident in Spokane involving a business employee who had been trained in the armed robbery education program shows a noticeable difference between trained and nontrained personnel. A female employee of a large retail store was the victim of an actual robbery 2 weeks after undergoing the mock robbery program. She was the second victim of the same robbery suspect in the course of an hour, and the differences between the first victim of this robber (who was not trained) and the second victim were very obvious. The nontrained employee panicked and was unable to cope emotionally with the robbery. In fact, the first victim could provide little information to the responding patrol division officers. The second victim not only was able to secure areas involved in the incident but also to provide a very complete and detailed description of the armed robbery suspect. In fact, she had the complete description written down prior to the arrival of the responding officers. Based upon the detailed description of the second victim, the suspect was arrested by detectives.

The ability to know how you are going to perform in an actual armed robbery is very difficult, if not totally impossible. Each person is affected differently, and by placing bank or business employees through as real an incident as possible, we hope to improve their abilities in a robbery, as well as to let them learn how they might react in a real situation.

The reactions from people during the robbery exercise have been similar to those seen on the faces of real victims. We have seen emotions ranging from nervous laughter to tears. Most have commented on their critiques that they now have a much better idea of how they might react and would now know how to control any extreme reaction.

The evaluation of the robbery education programs will continue indefinitely in Spokane; however, we are very confident that the results will continue to show increased employee safety and more definite data for law enforcement investigations. FBI

Investigative Techniques

Nonverbal Communications in Interrogations

"Nonverbal communication can be more truthful, meaningful, and expressive than spoken communication."

By MERLIN S. KUHLMAN

Special Agent
U.S. Army Criminal Investigation Command
Fort Riley, Kans.

Recognizing the Value of Nonverbal Communications

The use and understanding of nonverbal communications in police interrogation is a two-way process. The interrogator must be alert for the nonverbals expressed by the interviewee and must attempt to interpret them correctly. Simultaneously, the interrogator must be able to use his own nonverbals correctly when directed toward the interviewee.

Nonverbal communication can be more truthful, meaningful, and expressive than spoken communication. Facial expressions may convey an attitude of sincerity, shock, surprise, humor, sorrow, or concern. The tone of voice, inflections in delivery, emphasis on words, and use of other guttural sounds can mean the difference between a meaningful and interesting communication or one laden with monotony.

The body space or distance between communicators can have a bearing on the effectiveness of a communication. Body movement and gestures, whether seemingly automatic and involuntary or intentional, are key determinants in the actual meaning of any spoken communication. Maintaining eye contact with an individual may indicate the degree of sincerity on the part of the speaker. Other equally important nonverbals include proper use of time, control of profanity and slang, appropriate physical appearance, and the studied use of personal attire. Proper use, understanding, and employment of all these nonverbals in conjunction with the spoken word are keys to effective communication.

Manifestations of the Lie

The solicitation of a confession (convincing a person to tell the truth and give up a lie) in a police interrogation creates the most dynamic display of nonverbal communication imaginable; it is left to the interrogator to employ and interpret this "language" correctly. "Nonverbal language is not a precise language; we have to be careful we don't misinterpret nonverbal signals in our eagerness to understand what a person means. . . ."[1] Man's nature is to live within the world of reality, recognizing real things and real situations and speaking from a position of facts and reality. He experiences few problems or anxieties in speaking factually and honestly. He does not have to worry when stating his real name, date of birth, or accounting for recent activities. But to *lie*— to willingly and knowingly relate other than the truth—immediately causes a myriad of biological and physiological processes to take place within the mind and body. To the trained observer, these lies usually manifest themselves involuntarily in the form of nonverbal reactions or counterreactions. Physical signs of deception include perspiration flow, flushing or paleness of skin, pulse rate increase or decrease apparent from appearance of visible veins in the head, neck and throat, dry mouth and tongue, excessive swallowing, respiratory changes, muscle spasms, licking of the lips, thickened and blurred speech, stuttering, and darting eye movements.[2] Other symptoms that may be revealed, particularly when a person fears that his lie has been detected, include some degree of rigidity in the body, the hands begin to "play" with each other, clenched fists, flushing in the face and neck, and a cold clammy sweat in the palm of the hands.[3] When seeking a confession from a suspect, the interrogator must be continually alert for any nonverbals exhibited by the interviewee, paying particular attention to the face. Any interviewer knows that a feeling of warmth is conveyed by looking directly at a person, smiling, or leaning toward him. The more one looks directly into the face of the person being spoken to, the more apt one is to convey a generally positive feeling toward that person.[4] The "language" of nonverbals is "spoken" most prominently by the face, but detection of these nonverbals often requires an alert and trained eye. ". . . facial expressions can change instantly, sometimes even at a rate imperceptable to the human eye. . . . [the face] is the most effective way to provide feedback to an ongoing message."[5] Authors Arthur Aubry and Rudolph Caputo even maintain that "'facial tics' (grossly exaggerated muscle spasms of various parts of the face) are positive indications of lying. These tics take the form of strange grimaces of all the facial muscles in general; sometimes these tics may extend to and involve the arms, legs, and even the whole body will occasionally participate in characteristic muscle incoordination."[6] Facial expressions and movements are not necessarily the only "positive indications" of lying. "Many subjects who are on the verge of confessing will start picking their fingernails, or scratching themselves, or dusting their clothing with hand movements, or they will begin fumbling with a tie clasp or other small object. As politely as the interrogator can, he should seek to terminate such conduct. He may do so by gently lifting the

Special Agent Kuhlman

Lt. Col. D. N. Poiner

subject's hand or by removing the object from his hand, always avoiding any rudeness as he seeks to end such tension-relieving activities."[7] The interrogator should then launch into the final solicitation of the confession, allowing the "telling of the truth" to be the suspect's channel for release of tension.

Failure of the interrogator to interpret nonverbals correctly not only may delay confession but could also lead to false conclusions. All persons do not exhibit the same nonverbals under similar circumstances. Perspiration flow and flushing of the face are two of the most easily misunderstood involuntary physiological reactions. Just as some persons perspire little or not at all, regardless of the stress or circumstances, others may naturally perspire freely and easily under the most calm and stable conditions or environment. Likewise, a flushing or blushing face on an easily embarrassed person does not necessarily mean that the person is concealing the truth. Detection of watery eyes in a suspect *might* mean he is about to cry and confess his crime, or it might mean he is a narcotics user in need of medical attention. If a suspect under interrogation eventually appears weak and submissive, it *might* mean he is about to confess the truth, or it could mean he is simply very tired and needs a rest. A classic example of failure on the part of police to interpret properly nonverbals during an interrogation occurred recently during a homicide investigation in the northeastern part of the United States. A suspect was picked up and held in police custody about 22 hours during which time he was allowed to "rest" about 4 hours and ate only half a candy bar. During the interim interrogations, he made what was later determined to be an "incriminating statement" that police used to further convince the man that he might have committed the crime. The police ultimately obtained from him a confession that was later determined to be false and wrongfully obtained. Repeatedly during the interrogations, the suspect indicated that he was tired, hungry, and concerned about his fate. He became fidgety, occasionally stared into space, and fell prey to the smoothness, warmth, and friendship exhibited by the interrogators, whom he genuinely believed were trying to help him. Studies of the tape recordings of the interviews revealed instances of the suspect's voice "breaking," changes in breathing patterns, and a marked appearance of relaxation after making the first self-incriminating statement. Working without benefit of legal counsel or any immediate family member or friend to lend support, the man was involuntarily communicating very strong nonverbal language that the interrogators, in their eagerness, wanted to interpret as indicators of guilt. The suspect was subsequently cleared of all charges.[8]

The Mentally Disturbed

Additional emphasis should be placed on proper, though cautious, detection and interpretation of nonverbals when interviewing or interrogating mentally disturbed persons. Different interview techniques and approaches may have to be applied by the interrogator when dealing with psychopathic or psychotic persons. "In the commission of a criminal act, the conscience does not act as any sort of brake, and it may be extremely difficult for the individual to distinguish between right and wrong. For this reason, the classical approach to interrogation which plays upon repetition of the theme of good and bad, right and wrong, will have very little or no effect upon the psychoid."[9] Just as the prudent use of time can be an effective nonverbal technique for any communicator, it is even more important during police interrogations, particularly when the interviewee is known or suspected of being mentally disturbed. If silence is not offered at the right time by the interrogator, the interviewee might feel he is being pressured and not being allowed the time or opportunity to talk.[10] Such a simple misuse of nonverbals could easily prove fatal in attempting to obtain the desired confession, or at least, compound the already existent problems in the interrogation. Interrogations of mentally disturbed or mentally ill persons should not include methods of "hot and cold," one interrogator against the other, bluffing, or any emotional approach, such as the cold shoulder technique or an attitude of indifference. Appropriate methods might include use of a hypothetical story, exhibition of sympathy and understanding by the interrogator *if* used with caution (to preclude leading to a false confession), or pointedly direct or indirect approaches.[11] Added caution in interpretation of nonverbals under these circumstances is necessary because the mentally disturbed person frequently exhibits "signs" of possible mental illness not unlike those indicators professed by Aubry and Caputo to indicate a suspect who is lying. The mentally disturbed person might exhibit any of the following indicators, none of which necessarily pertain to his either telling a lie or being truthful:

1) General behavior—negative, withdrawn, suspicious, angry, antisocial, domineering;

2) Motor behavior—unusual twitches, unnatural poses, normal to fluctuating gait and limb movement;

3) Facial expressions—tension, suspicion, anger, silliness, fixed-eye focus or stares;

4) Mood—changing, unstable;

5) Speech—uncoordinated, no inflection; and

6) Poor thought organization and content.[12]

If the interrogator does not read the nonverbals correctly during interviews of mentally disturbed or mentally ill persons, he might begin to feel that he is close to the hoped-for confession when in all probability the suspect is merely relating what the interrogator *wants* to hear. The police are then satisfied because they have a confession, and the suspect is satisfied because he has made the police (although his adversary) happy—all because of the unfortunate misunderstanding of the nonverbal language.

During the interview of a military serviceman suspected of attempted arson, military investigators not well-trained in either interpretation of nonverbals in communication or in interviewing mentally disturbed persons were needlessly confused by the results of their interrogations. They initially believed that the suspect's sporadic shifts in oral statements from real to seemingly surrealistic situations, his glassy-eyed stares, his reference to fictitious movie characters, and his flowing hand gestures were little more than attempts to imitate a psychotic person or that they were possibly the result of hallucinations from recent drug ingestions. One interrogation continued for over 3 hours, with stern accusations made toward the interviewee. His subsequent "confession" appeared to be so far-fetched that the investigators placed little credibility in it. However, the suspect was ultimately declared to be suffering from "acute paranoid schizophrenia." The investigators could have saved valuable time during the investigation had they been better prepared to "read" the nonverbals being expressed by the subject.

On the other hand, a police interrogator should neither avoid nor ignore the results of an interview with a person known to be or suspected of being mentally disturbed. Although the use and interpretation of nonverbals can sometimes be complex, the results of the interview or interrogation could well be the key to successful investigation and prosecution of the accused. This concept is not unique to U.S. police methods and has long been a recognized option in the courts of Great Britain:

> "A person suffering from unsoundness of mind may yet give evidence if the judge at the trial . . . is satisfied that he is then of sufficient understanding to give rational evidence; the mere fact that such a person is then suffering from delusions does not render him incompetent." [13]

Transmission of Nonverbals

The proper use of nonverbal communication by the interrogator himself could be the determining factor in obtaining a confession. In most cases, following establishment of an appropriate interrogator/interviewee relationship, the interviewee, whether he wants to admit it, begins to pay sincere attention to his interrogator. If the interrogator complacently listens to the suspect's version of the incident, remains basically expressionless, and casually nods his head as if in agreement with the "facts" related by the suspect, the interrogator will probably bolster the suspect's story and position, which could very well be false. This will delay, if not preclude, reaching the truth, and ultimately, a confession. Conversely, if the interrogator exhibits continual nonverbal indicators of disregard and disbelief for the account related by the interviewee by repeatedly shaking his head in a negative manner, rolling his eyes backward, using negative hand gestures, or looking away from the suspect, he could be discounting some key points being surfaced by the suspect and might miss the opportunity to detect the key point to be challenged. Such action may also "turn off" the interviewee from further cooperation with any interrogator in the future. The interviewee is as alert to nonverbals as the interrogator. The astute interrogator will carefully decide the right time to challenge the suspect's story; he will know the precise moment to turn in his seat, lean toward or away from the suspect, slam his pencil down on the notepad, sternly advise the suspect that his story is false for whatever reasons, and make the final attempt for the confession. If done correctly, with precision and at the proper time, the interrogator's use of nonverbals, coupled with the spoken word, can make the solicitation of a confession as irresistible to the suspect as is a plate of fine food to a hungry man. It is important that the interrogator remember that his own nonverbals are just as important or meaningful as those of the interviewee.

Summary

The language of nonverbal communication is dynamic. Correct interpretation of nonverbals can be an asset to the police interrogator conducting interviews and interrogations, saving hours in attempting to hurdle the barriers so often present in the spoken word alone. At the same time, incorrect use or misinterpretation of nonverbals can be disastrous, leading to deadend interrogation or even false statements or confessions, particularly in dealing with the psychopathic or psychotic person. **FBI**

Correction: In the article "Police Use of Deadly Force" (August 1980), author James Q. Wilson suggests that Cecil Sledge, a New York City police officer, was black (p.17). In fact, Officer Sledge was white, as Professor Wilson has since learned.

Footnotes

[1] Richard L. Weaver, III, *Understanding Interpersonal Communications* (Glenview, Ill.: Scott, Foresman and Co., 1978), p. 145.

[2] Arthur S. Aubry, Jr., and Rudolph R. Caputo, *Criminal Interrogation* (Springfield, Ill.: Charles C. Thomas, 1972), p. 257.

[3] Ibid., p. 261.

[4] Weaver, pp. 154–155.

[5] Ibid., p. 155.

[6] Aubry, p. 165.

[7] Fred E. Inbau and John E. Reid, *Criminal Interrogations and Confessions* (Baltimore: The Williams and Wilkins Co., 1967), p. 35.

[8] Donald S. Connery, *Guilty Until Proven Innocent* (New York: G.P. Putnum & Sons, 1977), p. 48.

[9] Aubry, p. 16.

[10] Robert J. Wicks, *Applied Psychology For Law Enforcement and Correction Officers* (New York: McGraw-Hill Book Co., 1974), pp. 120–122.

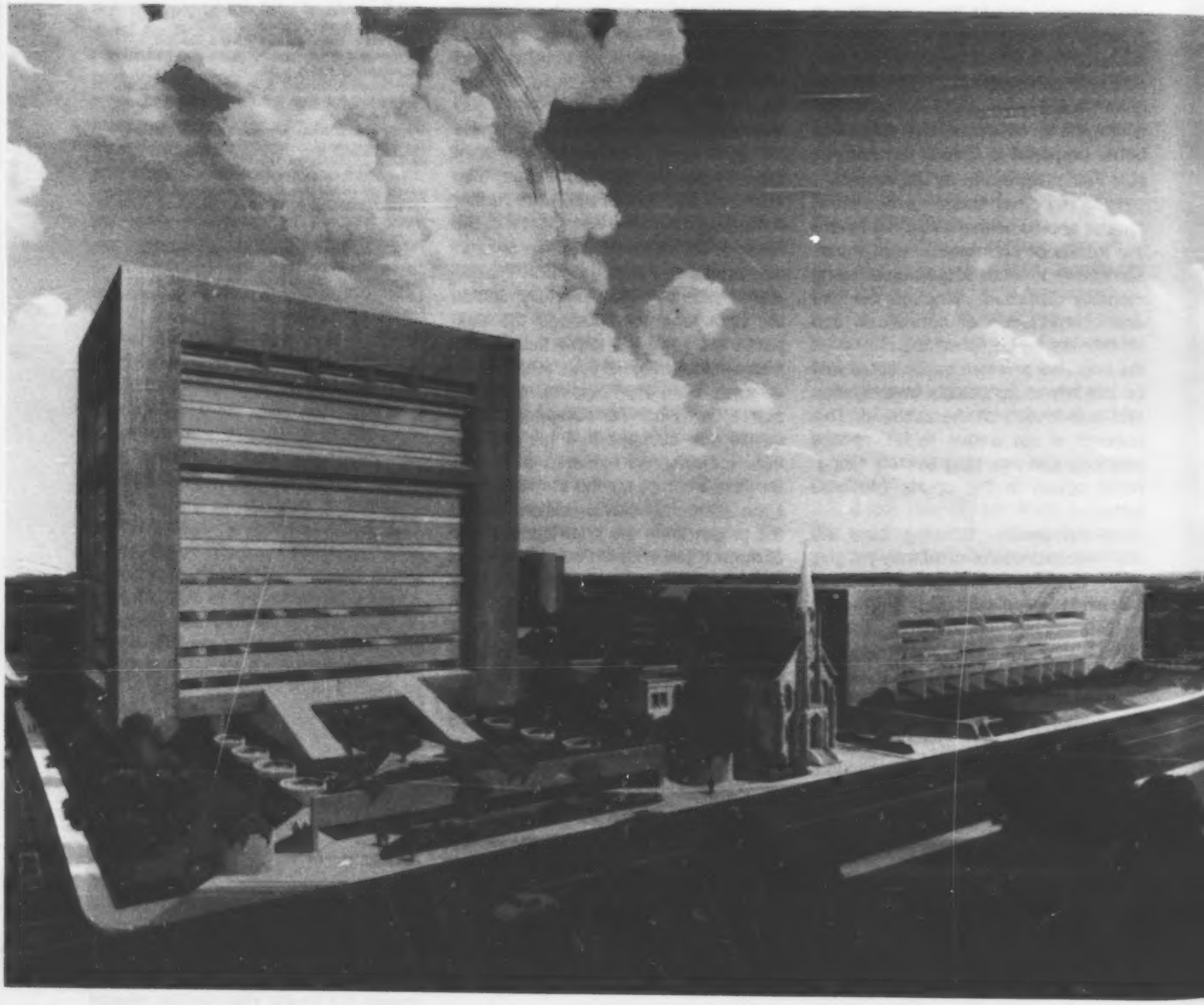
[11] Brian F. Smith, "Police Identification and Interrogation of the Mentally Disturbed" (M.A. dissertation, The George Washington University Law School, 1973), pp. 20–25.

[12] Ibid., pp. 14–15.

[13] Great Britain, Metropolitan Police Detective Training School, Peel Center, *Depositions, Committal Proceedings, and Dying Declarations, D.9 Precis No. 29* (London: Metropolitan Police Detective Training School, Peel Center, Hendon, 1978), p. 2.

Facilities

Problems of Today— Solutions for Tomorrow:



Cities within Cities

By

SHERIFF GENE BARKSDALE
And LT. W. LEE FORBES
Sheriff's Planning Unit
Shelby County, Tenn.

A new city is being completed in Shelby County, Tenn., to be populated initially from a list of approximately 600 eligibles. It will contain all the services provided by any other city in any State in the Union, including public works, trash pickup, and fire and police protection. Essential services will be carried out by a permanent staff ranging from an initial 450 to over 700 when the population reaches the maximum 1,200 residents.

The design and construction cost in excess of $22 million and will be completed next year. Planning for staffing patterns, service delivery, operations, and training continues to focus on the relocation of the first residents during the summer of 1981. Average projected costs for all personnel, services, and programs exceed $10 million a year.

Imagine the impact to the local economy in the initial hiring of a staff of 450. Their duties will include the maintenance of over 7 acres with over 1,220 single residences and 41 semiprivate recreation areas and the supervision of various recreational programs, including basketball, volleyball, shuffleboard, and stickball.

Free services provided the participants, who pay no rent, taxes, or fees, include food from six centrally located kitchens, a bakery, the use of multiple dining areas, handling up to 62,000 meals a month, two libraries, two beauty shops, three barbershops, and laundry and drycleaning facilities. Other free services include medical and dental care, chaplains, and counselors. Reserved for the residents' sole use are recreation fields and courts. Also available are private visitation areas and secure property storage. Top this off with a system capable of handling over 50,000 housing assignments per year and complete the scenario by convincing the local taxpayers to fund the city totally and guarantee its operation in the future, no matter what costs are involved.

Reservations are now being considered for the first group of occupants, but there is a catch to qualifying for occupancy. Prime consideration will be given to persons whose address is, at the time of the city's dedication, 150 Washington Ave., Memphis, Tenn.—the current Shelby County Jail.

Since the late 1960's, it has been apparent that the courts were moving in a direction that would preclude the continued use of the current county jails. The use of two jails requiring dual staffing and many transfers was an inefficient and costly way of handling arrested persons. The majority of arrested persons were housed in the city jail until bound to the State court system. At the time of bindover, transfers involving outprocessing from the city jail, mittimus papers issued from the city courts, and intake processing at the county jail were required, placing a tremendous load on all concerned.

The jails were overcrowded and out-of-date, both in size and type, and did not provide adequate housing, treatment programs, or recreational activities for the inmates. Completed in 1926, the current county jail was designed for a maximum 290 inmates. Over the years, an additional facility of 250 beds was built to accommodate the overflow of the downtown jail. The city jail has a capacity of 335, but weekend counts generally exceed that figure, sometimes reaching 500.

The time had come for concerned officials to come up with long term solutions. After a study by outside consultants, a planning grant from the Law Enforcement Assistance Administration was secured to provide a base for future decisionmaking. A local architectural firm was selected to oversee

Shelby County Justice Center.

Sheriff Barksdale.

this phase of the needs study, as well as to provide alternatives from which local government could select the most viable plan.

One option discussed at length in this stage was total consolidation of all jails under the Sheriff of Shelby County. However, the courts would not tolerate for long the conditions present in the local jails. Advantages to the consolidation included economy, efficiency, program fulfillment, and the refocusing of community resources to one inmate installation. After several years, the only viable plan appeared to be the construction of a new jail in the downtown area, adjacent to the existing county, State, and Federal courts.

Scheduled to open in early 1981, the pretrial detention facility has now become part of a $45 million complex. The 13-floor administration building will house all lower courts for both the City of Memphis and Shelby County, as well as the eight resident divisions of criminal court. The administration building will also contain the clerks of the various courts, the public defender, the attorney general, and the administrative divisions for both the Shelby County Sheriff's Department and the Memphis Police Department.

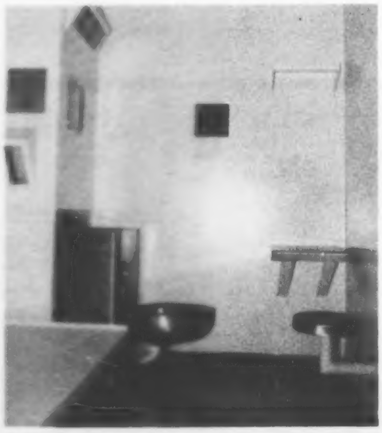
The criminal justice system in Memphis/Shelby County will revolve around the pretrial detention facility. This will totally replace both the county jail and the jail located at the county penal farm. The new facility will also handle the city prisoners now held by the police department, thus relieving them of jail responsibilities effecting a totally consolidated jail operation.

One major concern of those involved from the earliest stages through final approval was the rather loosely defined and ever-changing scope of the phrase "a constitutional jail." Through years of litigation and court suits, the conditions, services, and comforts provided to those incarcerated in jails throughout the United States were being defined and settled, but on a piecemeal basis, with little overall guidance for those faced with the task of building, staffing, and operating these facilities. Couple these ever-changing and ever-broadening guidelines with a local suit relating to jail conditions, and one realizes the tumultuous situation faced by the sheriff's department and local governing bodies attempting to define the final design for the detention facility.

Prior to accepting the design, several basic decisions had to be made concerning size, layout, services, and operations, and each had to be reviewed and weighed in light of recent court decisions. A large part of the time spent was used for research in an attempt to anticipate where the courts were going in the future.

Judicial review of jail conditions spanned periods ranging from the prisoner having no rights to today's standards in new jails, with all the attendant services and programs. An early judicial review in this area revealed that prisoners had little or no constitutional rights. In *Ruffin* v. *Commonwealth,* 62 Va. (21 Gratt.) 790 (1871), the court stated: "He has, as a consequence of his crime, not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords him. He is for the time being the slave of the State."

By 1944, the courts decided that a prisoner retained all the rights of any other citizen, except those taken from



Typical cell, 9' × 6', grouped around a common day room. With the addition of a mattress and locker, this cell is ready for occupancy.

him by law. The idea of rights being retained was accepted by the U.S. Supreme Court in a 1974 case and has colored the further application of suits involving the use of the Federal Civil Rights Act.

By 1974, the rights of convicted inmates and pretrial detainees appeared to diverge again—the rights of pretrial detainees were expanded to allow only limitations necessary to guarantee their appearance at the trial, taking into account the security needs of the institution. Basically, an unconvicted person is treated as a convict only in areas where security, health, and discipline are concerned. This ruling initiated questions in the areas of training and staffing of a mixed institution serving the needs of both pretrial and sentenced individuals.

Further problems arose in the area of existing construction standards available for use as guidelines in designing the physical plant. At the time of finalization, the State of Tennessee and the Federal Bureau of Prisons had no minimum construction standards for jails. The policy standards of the Bureau of Prisons and the recommended minimum standards for jails in Tennessee did not address the size or type of facility envisioned by local agencies and recommended by the consultants.

The development of basic policy and studies in the areas of long term housing, short term detention, and service delivery to inmates dictated a design that would meet the needs of all concerned, both now and in the future. The design included three separate housing areas and several different flow patterns depending upon the conditions surrounding the inmates' arrest, his court status, or the need for long term housing.

The pretrial detention facility contains six floors, each consisting of slightly over 1.22 acres, with a total area of approximately 7.35 acres in which prisoners will be housed. The basic design is that of single cells grouped into pods ranging from 5 to 24 inmates, surrounding a common dayroom. Trust dormitories adjacent to the kitchen and hesitation holding areas in the booking section are the only exceptions. This type of housing will most easily meet any requirements for classification, separation by charges, or types of protective custody or security that the courts might decide in the future.

As much as possible, functions within the facility are divided by floor in order to handle the differing status of inmates and to preserve a series of continual flows in several areas of the building. To preserve security and to prevent the mixing of inmates with differing classifications, it is extremely important that these flows are maintained. The floors' functions are:

1) Lower Level—intake processing, hesitation holding, booking and property control, ID/fingerprinting, medical screening, crisis counseling, pretrial release interviews, male short term housing (168 cells), female short term housing (42 cells), dressing areas, property storage, laundry, visitation and interview rooms, and release processing;
2) First Floor—female long term housing (103 cells), classrooms, counseling, kitchen and food storage areas, trust dormitory, jail administrative offices, visitation and interview rooms, detective workrooms, pretrial release offices and probation offices,
3) Second Floor—admissions and orientation, medical facilities, counseling and classification offices, chaplains' offices, chapel, libraries, female housing (30 cells), male housing (164 cells), kitchens, and dining areas (male and female);
4) Third Floor—male long term housing (346 cells), counseling offices, classrooms, kitchen, and dining area;
5) Fourth Floor—male long term housing, counseling offices, classrooms, kitchen, and dining area;
6) Fifth Floor—outdoor recreation areas (male & female), indoor gymnasium, and minigym.

Security for the jail includes closed-circuit monitors on the perimeters, in the tunnel between the jail and the court building, and in all elevators carrying inmates. Floor security is based on total observation and control of an inmate while he is moving in the vertical transport systems and excluding personal contact with prisoners from other floors. If an inmate leaves his assigned floor, a search for contraband will be made upon his return, before the inmate can contact others on the floor.

Each floor is color-coded, and inmates are issued clothing to match their floor and classification. This calls attention to all persons off their regularly assigned floors. Floor security is further strengthened by the housing pod concept which allows no more than 24 inmates to congregate in an area, except during scheduled feeding or recreation periods. Each housing pod, no matter what its location, allows observation by jail personnel from all sides by means of walkways. The separation of inmates by felony and misdemeanor charges, as well as by repeat or first offenders, is easily accomplished by using the housing pod concept. Further classification allows grouping by security risk factors and determines all assignments or transfers in housing areas. All door controls, escalators, and elevators are operated by remote control from 20 secured control centers throughout the building. Each control center is connected to all others by a system of in-house intercoms and telephones and serves as the traffic management point for all areas under its control. Multiple intercom points allow swift response to requests for assistance by other staff members.

Operational flows are separated to go with necessary functions and generally concern the overall activity on one floor.

The lower level of the building acts as the central intake and release point for all prisoner traffic, as well as serving as a replacement for the current city jail. Traffic is routed through one vehicular sallyport, and male and female prisoners are separated prior to entering the jail. Intake processing and booking is segregated according to sex, with separate facilities provided throughout. If intake processing overloads the booking process, individual hesitation holding cells are provided to allow the continued acceptance of prisoners without delaying the arresting officers' return to duties.

After a preliminary search and a complete inventory of personal property and money, the prisoner is allowed two phone calls before the completion of the booking process. Stops at ID/fingerprint and medical screening precede the cell assignment on this level for short term housing. These short term housing areas contain 168 male and 42 female cells with no dayrooms and house the inmate for a period of 24 to 72 hours, depending on the date of arrest and first scheduled court appearance. Statistical studies indicate that by using the various methods of pretrial release, two-thirds of all arrested persons are released during the first 24 hours of detention, with most staying for 6 hours or less.

Until the prisoners either arrange release or make a first court appearance, they remain in their street clothes and continue to be housed on this level. After a first appearance in court or upon commitment to jail, they are included in a regular "dress out" session. After being issued jail clothing, the inmates are moved through the vertical transport systems to the second floor, where they stay for a period not exceeding 13 days.

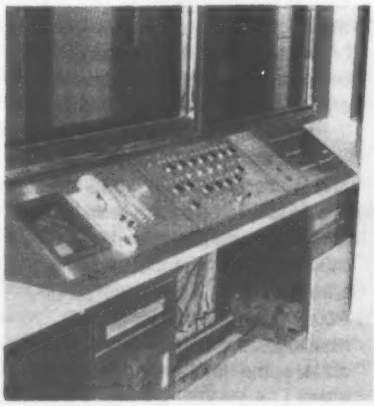
The second floor, Admissions and Orientation (A & O), houses both male and female prisoners and is set up to allow inmate participation in various resident programs. Each person is interviewed by counselors and classification personnel, medical practitioners, dentist, and if requested, chaplains. During their stay on this floor, each inmate is classified as to security risk, and an estimation is made of their future needs for special counseling and treatment programs during their stay. Testing, personal meetings, interviews, staff observations, review of prior criminal history, and a full medical screening contribute to the inmates final assignment in a regular housing area.

Due to the nature of admissions and orientation tasks, the ratio of staff to inmates is higher here than in any other area. The typical housing area is a 16-person pod, clustered around an activities area or dayroom. Counseling offices serving two pods and an audio-visual classroom provide the staff with enough space to implement the comprehensive admissions and orientation programs.

Security for A & O remains maximum, since the staff is unfamiliar with the inmates. Each is considered potentially dangerous until full classification is completed.

Inmates are introduced to the rules and regulations as soon as possible after their move to A & O. A rules and policy booklet is given to each inmate and a comprehensive orientation to the methods and means of getting around the jail is presented. By using the proper pass and coding systems, a prisoner may move around the building without the need of personal escort.

Once an inmate has completed all sessions in A & O, he is moved into regular long term housing areas. Generally about 80 to 85 percent of all admitted persons secure a release prior to this time. Based on evaluations, all others are assigned to a housing area appropriate to their security risk profile. Female inmates are moved down to the appropriate areas on the first floor, while males proceed to either the third or fourth floors.



Typical control panel is operated by one officer. Some control rooms contain up to seven officer stations of this type.

Each long term housing area is divided into minimum, medium, and maximum security levels. The floors consist of a series of 23-man pods surrounding an activities area or dayroom. The different levels of custody entail a reduction in floor space and pod size and an increase in staff observation and activities totally segregated from other prisoners.

Programs in the long term housing areas are setup so that the staff moves into the inmate areas, cutting down on inmate traffic in the vertical transport systems and reducing the time needed to search prisoners who are returning to the floors. Counselors and program personnel have offices and classrooms on all levels of the building, further aiding in building security.

The fifth floor provides the space for recreational activities which are an integral part of any rehabilitation program. A structured series of activities, both in and out of doors, does much to combat boredom and release pent-up energies that could be destructive if expended in other ways. The main outdoor areas are divided so that both male and female prisoners can exercise at the same time. When the female areas are not in use, male inmates may use the unoccupied areas. A covered gymnasium and a minigym are used during inclement weather. Structured programs in basketball, volleyball, shuffleboard, ping pong, and stickball afford all inmates the opportunity to remain active.

To supplement the planning of physical design and operations, the sheriff's department audited its paper flow and information needs. This led to a further look at the information needs of other agencies who would be using the facility, especially the courts who would draw daily case dockets from the jail.

A review of all areas involving paperwork or transfer of information to other agencies revealed two areas of concern to the planning staff—the old computer system appeared inadequate to handle the projected caseload when the jail began handling all arrested persons, and records needed to document the systems were scattered through several divisions of the department.

Studies were undertaken to determine the projected information needs of the combined facility. The jail and Bureau of Identification records systems in the sheriff's department were to be combined into one jacket file system, using microfiched history storage. During the move into the new records and information area in the administration building, this new jacket setup will be loaded into a mechanical filing system and gradually converted to a total microfiche file based on a "day-one" booking flow. It is anticipated that this system, based totally on fingerprint identification of all prisoners booked into the jail, will gradually phase out the need for maintaining the majority of the old Bureau of Identification records now kept by various law enforcement agencies. Using the "day-one" booking approach, approximately 90 percent of those persons now involved in the local criminal justice system will, within 24 months, have their records updated and converted to the new, "on-line" system.

Covered gymnasium provides a recreation area for prisoners.

The paper records used for booking, ID/fingerprint, release, and general operations in the jail will be forwarded to records by a system of pneumatic tubes connecting the two buildings. They will remain in the jacket system until the case is disposed of by the courts. Upon receipt of the disposition, all paper concerning that arrest and booking cycle will be microfiched and returned to the file jacket which is subfiled by booking number.

Based on the sheriff's department's prior studies of the Records & Information section, the computerized record system being developed on Shelby County government's computer will provide "real time" access to all information needed to operate the jail and courts systems. By using a concept of total processing of all prisoners booked into the jail, including fingerprints, the basic information collected will be used to generate a series of reports and statistical data for all authorized and interested parties.

Booking data will be made available to the various courts for docketing purposes and will also serve as the generator for several management systems concerned with the efficient operation of the jail. Other areas of responsibility for the sheriff will be supported by data and statistics generated from the jail & records systems through various management reports and performance indexes based on arrests by division, bureau, or unit levels. The same type of information will be available for other agencies as requested. Billings for board charges will be produced for the State and county governments, as well as local and Federal authorities.

In order to provide the up-to-date information necessary to schedule activities, assign and reassign cells, and respond to requests for an inmate's presence in other areas, a subsystem was developed to maintain and monitor the inmates' location at all times. The "inmate tracking system" is based on the assumption that one cannot arrive unless he was sent. Any exceptions to this sequence will cause a security printer to record the event in the main control center. Corrective action by the shift commander can be taken immediately to locate the inmate and update the appropriate records. By requiring that checkouts be made from the control centers in the jail, the system can be used to provide a complete listing of all service areas, medical calls, etc., involving a particular inmate. Upon completion of an arrest cycle, these listings and the paper files can be checked against each other for completeness and accuracy prior to placing on microfiche. Running on a dualed system, with full redundancy in the terminal net and backed with emergency generators, the system should provide 95 percent plus up-time, allowing the jail to operate without the need for much of the paperwork required to support the old systems. By fully processing all persons and properly using

Outside male recreation area.

the inmate tracking system, many of the lists and reports now completed and maintained manually can be eliminated, and daily system generated listings can be used in case of unscheduled computer down-time.

The staffing and training for the complex brought about another series of studies and discussions concerning the relative merits involved in using commissioned or noncommissioned personnel. The overriding argument that ultimately decided the question was that of the dissatisfaction generated by placing commissioned personnel trained as law enforcement officers in detention duties. A secondary consideration was the difference in personnel costs. It was decided that a new career program would be developed for noncommissioned personnel in the sheriff's department.

The deputy jailer program spans a series of 5 grades with 19 pay steps in each. From entry on duty as a Deputy Jailer I through the Deputy Jailer V, there are both longevity and educational requirements. Individuals who choose not to compete for an increased level of responsibility can advance through merit steps.

This program should allow the sheriff's department to hire and maintain a professional staff that will be trained for the needs of a pretrial detention facility without suffering loss of morale by using commissioned officers for these jobs.

Today's problems in Shelby County reflect those faced by many agencies throughout the United States. Correctional institutions are involved in lawsuits dealing with physical conditions, space allocations, overcrowding, staff competency, staff/inmate ratios, inmate security, and program delivery. We have attempted to meet the required standards and to anticipate future requirements. Single cells, classification groupings, specialized staff requirements, and complete service delivery combine to give the responsible jurisdiction enough flexibility to continue to change with the mandates of the courts and society as a whole. **FBI**

Forensic Science

OBTAINING SALIVA SAMPLES FROM BITEMARK EVIDENCE

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EDITOR'S NOTE: This article should be of interest to all police personnel; however, only medical examiners or trained forensic technicians should attempt to obtain this type of evidence.

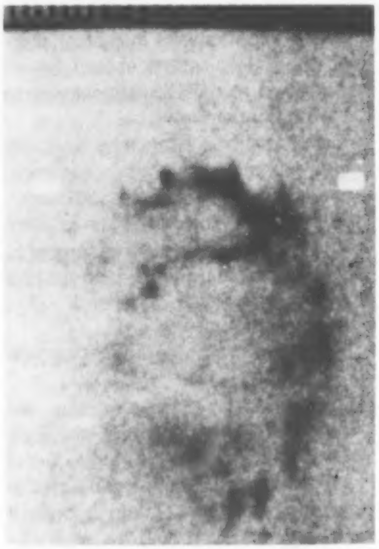
Reference is made to a brand name applicator (Swube). This type of applicator is recommended because it has a friction cap and its design and availability lends itself to this procedure. While brand names may be mentioned in articles published in the Bulletin, this is solely for information and assistance to law enforcement personnel. It should not, under any circumstance, be construed as an endorsement or approval by the FBI.

Bitemarks are most frequently found in violent crimes, especially those that are sex related. To aid in the possible determination of the assailant's blood type, the assailant's secretor status, and the presence or absence of salivary amylase and other proteins, saliva samples should be obtained in all suspected bitemark cases. The importance of bitemark evidence has become prominent as a result of recent trials in Florida, such as the Theodore Bundy [1] and Dorothy Haizlip [2] cases.

In the latter case, Dorothy Haizlip was found beaten and strangled in her Miami home. Bitemarks were found on her thigh and right breast. The area within the bitemark rings was swabbed and the evidence preserved. Testing of the swabbings revealed alpha amylase and the presence of the A and H antigens. The victim's serotype was blood group O. Subsequent blood and saliva standards obtained from the defendant confirmed that he was a type A secretor.

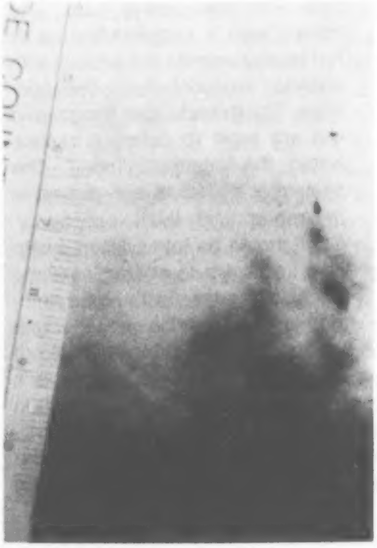
The basis for all data relative to a bitemark is the preawareness or discovery of the bitemark, followed by photography and saliva collection. Bitemarks may take many different forms, the most common being the bite "ring" made by the anterior (incisor) teeth of each arch. (See fig. 1.) Other bites may be a half ring in which only incisor teeth of the arch are present, as in the Haizlip case. (See fig. 2.) In addition, bitemarks may only be two or three teeth of an arch, not forming a bite "ring" but making more of a "tooth mark." (See fig. 3.)

Figure 1



Bite ring made by anterior (incisor) teeth of each arch.

Figure 2



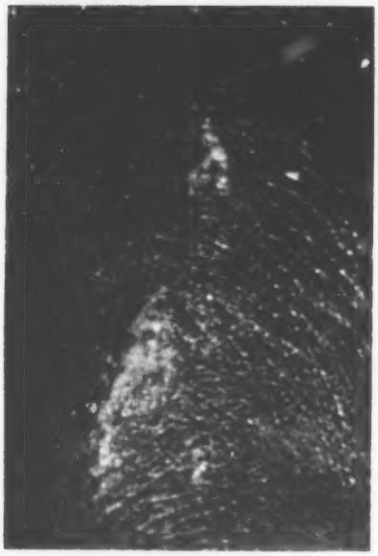
Half-ring bitemark (Haizlip case).

In homicide cases, the bitemark-related samples should be collected from the victim at the crime scene; however, if the bitemark area is handled with care during transit, the evidence may be collected in the morgue. One should avoid contaminating the bitemark and should position the body so as to avoid touching the surface of the bitemark with absorbant material, such as blood, water, clothing, or paper. The preferred method is to construct a cardboard tent and secure it over and around the bitemark area with scotch tape.

A bitemark saliva collection kit should include the following equipment. (See fig. 4.)

1) Two tubes containing specially treated cotton threads (one tube labeled "control" and the other tube labeled "sample"). (See fig. 5.) The cotton threads are specially treated by thoroughly washing and rinsing a portion of 100-percent cotton sheeting. It cannot be over-emphasized that the sheeting should be thoroughly rinsed following a detergent wash because residual detergent on fabric sizing can interfere with subsequent body fluid typings, and in particular, with the salivary amylase testing. After thoroughly drying the cloth, separate (tease) eight threads approximately 12 to 15 mm long from the piece of sheeting and place them in a 1 dram shell vial. This shell vial should have a 2 to 3 mm hole melted into the plastic stopper. This hole allows the threads to air dry once they have been moistened during the swabbing process.

Figure 3



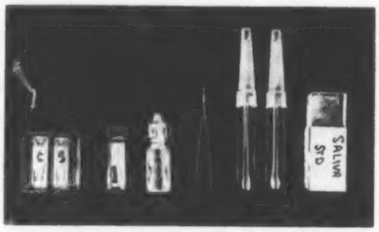
Bitemark made by a few teeth (tooth marks).

2) Filter paper (3 mm Whatman).
3) Labeled container for blood specimen. The container must be free of preservatives or other chemicals and must be large enough to contain at least 5 cc of blood.
4) Labeled container (squeeze bottle) for physiological saline solution.
5) One pair of clean forceps.
6) Two double Swube disposable applicators. Each double Swube disposable applicator consists of two cotton-tipped swabs in a clear plastic tube. Two labels should be included in the kit for attachment to the appropriate tube.
7) Cardboard box containing specially treated cotton cloth cut in a square, measuring approximately 3 cm^2. The cotton cloth is obtained from 100-percent cotton sheeting and is treated identically to the cotton threads previously described.
8) Instructions.

The saliva sample should be collected as follows:

1) Using clean forceps, grasp the clump of threads from the tube labeled control. Saturate the threads with saline, shaking off the excess solution. Obtain a control sample by swabbing an area approximately 1 by 1 inch, adjacent to the bitemark but not part of it. Avoid swabbing areas contaminated by blood. Place the threads back into the control tube. The control area is sampled first so as not to contaminate the forceps with secretor material from the bitemark. The threads from the second vial are used to obtain a sample within the bitemark "ring." The sample is collected and placed in the appropriately labeled container. Care should be taken when swabbing so as not to contaminate the swabbing material with blood or inflict any extraneous wounds with the forceps. The threads must not be touched by the examiner's hands since this could result in contamination by sweat. The specimens will be used to aid in the determination of assailant blood

Figure 4

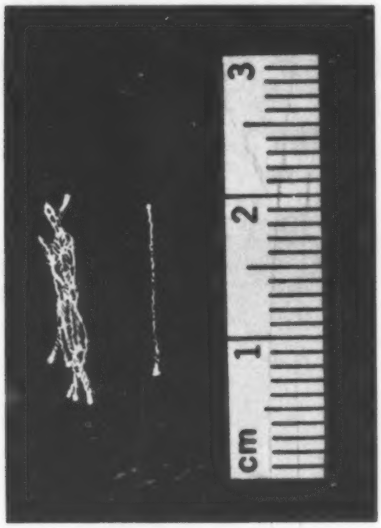


Components of saliva kit from left to right: Plastic box with filter paper and tubes containing cotton threads, blood tube, squeeze bottle with physiological saline solutions, tweezers, Swubes, and saliva standard cardboard box with cotton cloth. (The items not pictured here are labels for the swabs and instructions.)

SALIVA
STD.
U
S

Bitemark saliva collection kit.

Figure 5



Specially treated cotton threads.

type and secretor status in accordance with the usual forensic practices (i.e., the absorption-elution test).

2) Two cotton-tipped applicators from one of the Swube applicators should be used to reswab the area within the bitemark ring previously swabbed with threads. This is done to secure more material on a media adequate for blood typing and amylase testing. Salivary amylase (alpha amylase, AMY-1, Ec. 3.2.1.1) is commonly tested for by the starch-iodine method,[3] dyed starch substrate,[4] or electrophoretic technique.[5] Swabbing should be done by saturating the swabs with saline, draining off the excess water by gently touching it against the filter paper, rubbing thoroughly the area within the bitemark "ring," and placing the swabs into the plastic container. Remember that control swabbings must also be made of the adjacent area, using another Swube container. The samples obtained are also used to determine the assailant's blood type and secretor status by use of the absorption-inhibition tests.

3) In order to be able to interpret the results of the blood grouping tests, whole blood and saliva standards need to be collected from the victim. The cotton cloth from the box provided in the kit should be used to collect the saliva standard from the victim's mouth. The sample is obtained from the buccal mucosa, directly opposite the molar teeth on one side. If the cloth cannot be directly placed in the appropriate area, cotton swabs (Swube) may be used and pressed and rubbed against the cloth in order to transfer the control sample. The cloth is then stored in the cardboard box. Clean rubber gloves must be worn by the examiner for the collection of the saliva control. Five cm³ of whole blood should be collected from the victim by an appropriate technique and placed in a sterile container that is free of preservatives and other chemicals.

The specimens should be transported to the testing laboratories (usually crime laboratories) as soon as possible after collection. If prolonged storage is anticipated, they should be placed in a cool environment (4° C). Important information can be obtained from the saliva sample which may connect a suspect to a crime. The findings can be of the utmost importance to those persons involved in prosecuting or defending these types of criminal cases.

It is important to remember that contamination of the bitemark will alter or invalidate the blood grouping and serologic studies. In addition, the bite may be made through clothing which will prevent any saliva from being deposited onto the skin, thereby giving a false negative.

The method described here is simple, convenient, and inexpensive. A complete bitemark workup could also be the key that connects a particular crime to a particular suspect. **FBI**

Footnotes

[1] *State of Florida* v. *Theodore Robert Bundy,* Leon County, Fla., Circuit Court, Case No. 78 CF-670.

[2] *State of Florida* v. *Roy Allen Stewart,* Case No. 70-6621, Circuit Court of the 11th Judicial Circuit in and for Dade County, Fla.

[3] W. Roberts, "On the Estimation of the Amglolytic and Proteolytic Activity of Pancreatic Extracts." *Proc. R. Soc.,* London 32: (1881), pp. 145-161; L. C. Nukolls, *The Scientific Investigation of Crimes* (London: Butterworth & Co., Ltd., 1956), p. 200; and D. F. Nelson and P. L. Kirk, "The Identification of Saliva," *Journal of Forensic Medicine* 10 (1963): pp. 14-21.

[4] G. M. Willott, "An Improved Test for the Detection of Salivary Amylase in Stains," *Journal of Forensic Sciences Society,* 14 (1974): pp. 341-344.

[5] J. C. Ward, A. D. Merritt and D. Bixler, "Human Salivary Amylase: Genetics of Electrophoretic Variants," *American Journal of Human Genetics,* 23 (1971): p. 403; A. D. Merritt, M. L. Rivas, D. Bixley and R. Newell, "Salivary and Pancreatic Amylase: Electrophoretics Characterizations and Genetic Studies," *American Journal of Human Genetics,* 25 (1973): p. 510.

Terrorism

Countersnipers are the eyes of the command post. The three-man teams include a team leader, a primary countersniper, and a secondary countersniper who doubles as a photographer.

TACTICAL CRISIS MANAGEMENT:

The Challenge of the 80's

By W. RONALD OLIN
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The Central Intelligence Agency recently predicted that "terrorists will try to adapt their tactics to neutralize the countermeasures adopted by government and private security services. They probably will change target selection, improve planning and trade craft, and, possibly, increase their technological sophistication."[1] This prediction has ominous implications for law enforcement agencies in the United States. There appears to be a resurgence of terrorist-type attacks, whether politically or criminally motivated, which require sophisticated law enforcement response. Unfortunately, American police agencies seem to be locked into a "mind set" when dealing with tactical police operations. Most tactical police response is defined by parameters developed in the early 1970's. Unless we carefully evaluate recent innovations in handling crises, law enforcement may not be prepared to deal effectively with the challenge of the decade ahead.

How prepared are most law enforcement agencies to handle a complex tactical police response? Many agencies are only marginally prepared or not prepared at all. While some agencies have tactical units, specialized training has focused on the countersniper option. Response is complicated by some field commanders who rely on the spontaneous use of any officer arriving upon the scene. These arbitrarily dispensed assignments suggest that many administrators are quite assured that their enlightened leadership is more important than any preplanned response.

A great deal of literature is available to police officers and administrators on the various components of response. Many articles are available which describe the equipment or training of Special Weapons and Tactics (SWAT) personnel. Others describe the needs of hostage negotiation and weaponry. This article will review some of the historical developments relevant to police tactics and provide a concrete framework for planning and executing a sophisticated emergency response.

The State of the Art

Tactical response groups were organized to cope with an increasing problem of hostage and barricaded-suspect incidents. As usual, the police response to this phenomenon developed after the widespread use of these tactics by criminals. The resulting sophistication of the police response was enhanced when it was proven that "in those instances where the police used specially trained and equipped personnel, they were able to successfully isolate and contain the suspects and thereby prevented the loss of life of innocent bystanders."[2] Perhaps the most famous tactical team is the Los Angeles Police Department Special Weapons and Tactics (SWAT) team. Los Angeles pioneered the development and training of SWAT. The resulting model of tactical response was copied by many law enforcement agencies throughout the country. Some law enforcement agencies tried to obscure ties with the concept of SWAT because of adverse publicity caused by a popular television show of that name. In those cases, teams were created and the titles changed to "Tactical Operations Unit"[3] or "Emergency Services Unit."[4] However, the basic tactics remained the same.

American tactical police response has been locked into the mold as defined in the early 1970's by the LAPD concept of SWAT. LAPD specifies:

> "A SWAT team is composed of five permanent team members (team leader, marksman, observer, scout and rear guard). SWAT teams operate separately or combined with other SWAT teams as squads or platoons, to perform special tactical missions. . . ."[5]

Each SWAT team member was cross-trained in the duties of every man. Some police agencies changed the number of men assigned to a team or the name of the team. But, the evidence indicates that law enforcement's view of tactical response has been clouded by the automatic acceptance of the SWAT team model with little significant change. Some law enforcement agencies have integrated

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hostage negotiation techniques into the response concept. However, there has been a lack of a concrete model to incorporate a total systems approach for dealing with police tactical emergencies.

The development of SWAT and the aura of elitism inbred into the teams resulted in many articles in police professional journals, newspapers, and magazines, each accompanied by a photo of the particular team completing some exciting maneuver while brandishing the exotic weapons of their trade. The natural reaction of the public was to view SWAT as a "killer team." This citizen perception created pressure on police administrators to demonstrate that tactical police response can be deployed with a minimum of force. Hence, hostage negotiation rapidly evolved into an acceptable practice. Some law enforcement agencies merged their negotiators and tactical teams, while others insisted on separation of the two for optimum results.

Additional innovations accompanied these developments, including the use of scenarios to test the emergency response capability of an agency. Some scenarios pointed out difficulties in proper deployment. In a complex scenario run in Norman, Okla., the merger of tactical response and negotiation demonstrated an "obvious (need) to study further training programs."[6] The scenario also demonstrated that "the police sometimes stressed tactical considerations at the expense of sacrificing intelligence opportunities."[7] Perhaps the problem truly lies in the multiplicity of responsibilities required to resolve professionally a tactical emergency. While many problems were exemplified in scenarios and actual cases, no documentation can be found suggesting that the basic organization of the response was challenged. The traditional tactical response could be described as a simple four-point concept. (See fig. 1.) However, it is necessary to depart from this myopic view and examine a new framework for police tactical response.

Many lessons can be learned by examining past historical incidents.

Members of the assault group practice basic hand-to-hand combat. Fifty percent of all assault training is physical fitness and defensive tactics; the remainder of the training is devoted to classroom and scenario work.

Figure 1

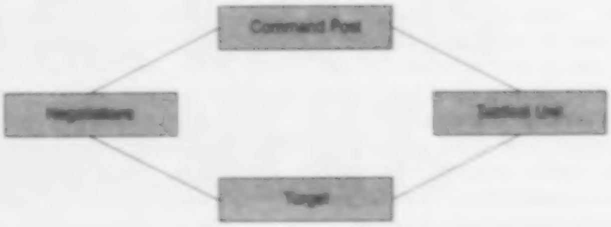
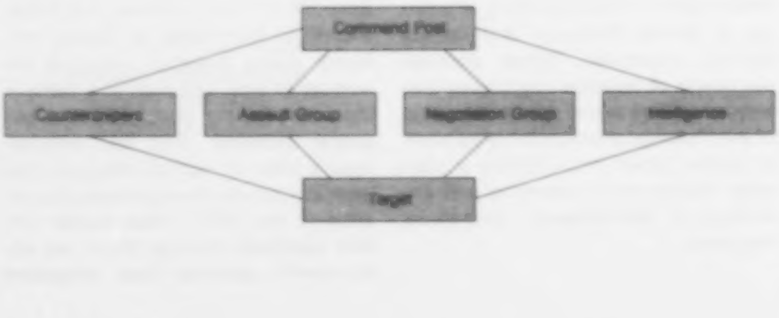


Figure 2



Perhaps one of the most sobering is the Munich massacre on September 5, 1972, in Munich, West Germany at the 20th Olympiad. Black September terrorists killed two and seized nine Israeli athletes in the Olympic village and held them for an anticipated trade with imprisoned terrorists in Israel. After lengthy negotiations were unsuccessful, the terrorists were transported to Fürstenfeldbruck airfield outside of Munich, where a gun battle resulted in the death of the remaining athletes, one police officer, and five of the eight terrorists. The Munich incident was complicated by many police problems, including inadequate intelligence gathering, no police assault capability, a total reliance on countersnipers for resolution of the problem, high ranking police administrators rather than mid-level personnel as negotiators, a language barrier, and a command post too close to the incident to remain emotionally detached. The resulting lesson, which has led to changes by both the Bavarian State Police and the Federal Republic of Germany, is that to be successful a police tactical operation must have intelligence, countersniper, assault, and negotiation capabilities.

These conclusions have been substantiated in other incidents and scenarios throughout the world. The evidence suggests that proper tactical response is too complex to cross train all personnel in all elements of any operation. This is especially true when the personnel train only part-time. Such a conclusion challenges one of the basic assumptions of SWAT. It is also obvious that to improve the tactical response of any law enforcement agency, it is necessary to define precisely the division of labor, the specific job tasks, and the training goals and objectives of each man. A simple alteration of the traditional concept of SWAT can solve the problems specified above. This model has been in use by our German police colleagues for some time. However, few American administrators have so precisely interpreted the lessons of history to mold an improved police response.

A Model Police Response

The resulting police response model is taken from the Bavarian State Police and incorporates a total approach for dealing with tactical emergencies. The model corrects the deficiencies outlined above. The strength of the model lies in the systematic identification of the elements necessary to resolve an incident of this nature. The strict division of labor and specialization is a further refinement of existing response models using four groups—countersniper group, assault group, negotiation group, and intelligence group. (See fig. 2.) This model may not vary significantly from the way some agencies actually handle tactical emergencies. However, it does carefully delineate the necessary criteria for an organized response.

Group One—Countersniper (3 or more men) This group requires a minimum of one three-man team comprised of one leader-communications man and two marksmen. The advantage of separating the countersnipers from the traditional SWAT composition is two-fold. First, most SWAT deployment is made on a team-by-team basis. In some instances, entire teams are used to set up countersniper positions when only three of the men are required to complete the task. If team deployment is not used, then the team must be split to accomplish total coverage. Secondly, the department's best rifle shots are not necessarily those who are young or in the best physical condition. While it is desirable to have combat-ready snipers, the only requirements for a countersniper are the talent to provide precise, controlled gunfire on command and the psychological ability to pull the trigger. A separation of the countersnipers from the assault team accomplishes these needs. Refresher training is also simplified for countersnipers, since daily or weekly practice can be completed with a minimum expenditure of time and money.

Group Two—Assault (7 or more men) The assault group is responsible for inner perimeter control, entry, and armed assault. This group requires a minimum of seven men, one for each side of the target and three or more for any actual assault. The separation of this team from the countersnipers enables the assault group to practice and perfect entry methods into various structures, short range selective fire techniques, hand-to-hand combat, protective assignments, and other specialized tasks.

Group Three—Negotiations (2 or more men) The negotiations group requires a minimum of one two-man team to conduct negotiations in the case of a barricaded suspect. The negotiators should be selected and trained in psychological communication techniques. Whenever possible, the negotiator should speak a foreign language or have translators available on an immediate basis. Two men are necessary in most instances to support each other physically and psychologically during the incident.

Group Four—Intelligence (3 or more men) The intelligence group requires a minimum of one three-man team specifically designated prior to any tactical emergency. This team is responsible for developing background information on the offenders involved. The group leader would be responsible for team coordination and evaluation of the information acquired from all sources. The group leader would then provide the command post with the information. In some cases, technological expertise is recommended to allow for electronic surveillance when legally permissible.

There are several advantages to the four-group concept of tactical response. Many tactical situations are successfully resolved or catastrophically bungled by local agencies before a more specialized alternate agency arrives. The four-group concept outlined above uses a department's personnel in the most advantageous way. The model clearly defines the tasks of each member and should result in less confusion and more control by the command post. The concept allows separate training and the development of more expertise by each group. Training scenarios can be easily developed to merge the response groups for practiced deployment on a regular basis.

The disadvantage to the four-group response is that it requires a minimum of 15 men. Because of budget and manpower limitations, this model may not be possible except in a medium or large police department. The model also requires a strong operational commander to control the diverse functions which are simultaneously occurring. However, these disadvantages are far outweighed by the advantages to this specific response concept.

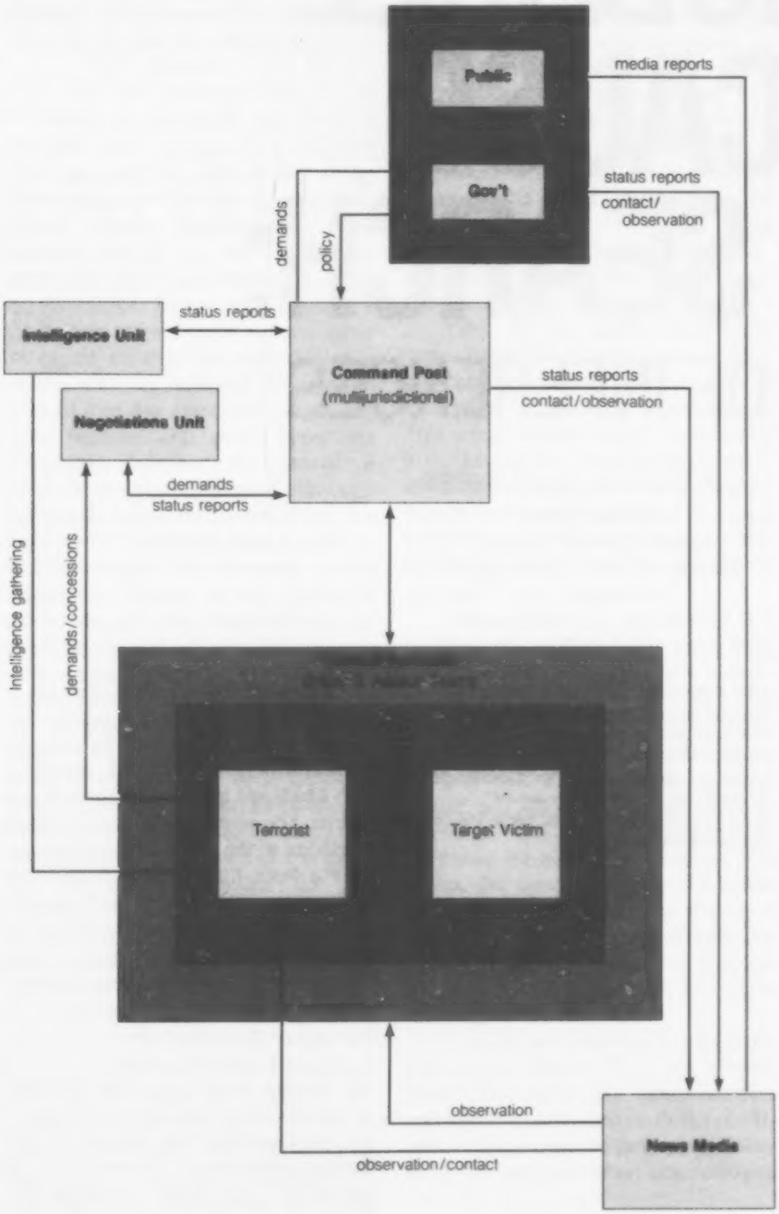
Conclusion

Tactical response is far more complicated than frequently depicted in training models. There are, in fact, many undiscussed areas of concern to any tactical operation. It is necessary to include the news media and the public's reaction when considering tactical response. The citizens have a right to know about these incidents. Agencies must be constantly striving to uphold professionally the trust given to law enforcement by the public and interpreted by the news media. Citizens expect proper handling of emergencies. The law enforcement profession cannot afford to be perceived as brutal, vicious, or disorganized. The resulting impact of an improperly handled tactical situation can be so overwhelming that the after-incident publicity may be more devastating than the actual tactical deployment. An ill-conceived tactical plan that fails may result in lawsuits, the forced resignations of key police personnel, or even unnecessary loss of life to those involved in the situation. In some social environments, it is possible that the perceived abuses of police authority could undermine the citizens' trust in the government, and the result could precipitate rioting or further attacks on law enforcement. The aftershock of terrorist incidents may be international in scope. When trying to understand

The intelligence group is charged with providing timely, efficient intelligence gathering on barricaded suspects or hostage situations. This group develops detailed personal information for use by the other groups and the command post.

One negotiator works on a scenario, while backup personnel record the incident and offer suggestions to handle the crisis more appropriately.

Figure 3


Public
Gov't
media reports
status reports
contact/
observation
demands
policy
Intelligence Unit
status reports
Command Post
(multijurisdictional)
status reports
contact/observation
Negotiations Unit
demands
status reports
Intelligence gathering
demands/concessions
Terrorist
Target Victim
observation
observation/contact
News Media

the actual forces involved in tactical crisis management, it's necessary to view the overall impact of a crisis on society. Figure 3 shows many of the complicated factors that must be considered during a crisis of this magnitude.

There are several historical precedents, including the rescues by the Israeli commandoes at Entebbe, the Border Police Group Nine at Mogadishum, and recently by the Special Air Services in London, which prove that a planned, practiced tactical response can be successful. It is increasingly necessary that law enforcement agencies be so well prepared in our response that we can rapidly seize the initiative from a criminal even when he has used the element of surprise. The West German model demonstrates that police tactical response can be viewed in ways other than the rather simplistic model of the 1970's. Law enforcement administrators must constantly strive to find ways to improve by studying successes, failures, and the lessons of others. Above all, we must not be locked into one view of response or fear constructive change. It is especially important that we carefully define the problem of tactical crisis management and vigorously pursue innovation in that area. Such a posture is the only way to meet the challenge of the 80's. **FBI**

Footnotes

[1] Central Intelligence Agency, *International Terrorism in 1979: A Research Paper,* (1980), p. 7.

[2] William L. Taloya, "Special Weapons and Tactics," *The Police Chief,* July 1975, p. 71.

[3] Connie H. Pitts, "A Tactical Operations Unit," *FBI Law Enforcement Bulletin,* January 1975, pp. 10–13.

[4] Massad F. Ayoob, "Special Weapons and Tactics: The New York City Approach," *Law and Order,* October 1975, pp. 56–60.

[5] Los Angeles Police Department, "Special Weapons and Tactics Team Concept," 1974, p. 1.

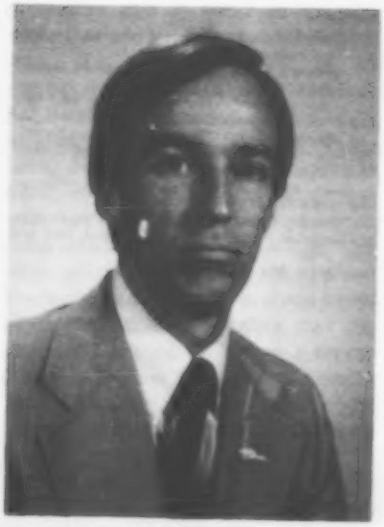
[6] Stephen Sloan and Richard Kearney, "An Analysis of a Simulated Terrorist Incident," *The Police Chief,* June 1977, p. 59.

[7] Ibid, p. 58.

PROBABLE CAUSE TO SEARCH:

USE OF INFERENCES

By ROBERT L. McGUINESS
Special Agent
Legal Counsel Division
Federal Bureau of Investigation
Washington, D.C.



Special Agent McGuiness

Law enforcement officers of other than Federal jurisdiction who are interested in any legal issues discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

Consider this situation. You are in the process of solving a crime. You have identified a suspect through fingerprints or an eyewitness identification which will be persuasive evidence at trial. You wish to seek out additional evidence of the crime, or simply recover the fruits thereof, and believe the suspect may still be in possessión of it. However, no one has observed the suspect with this evidence at any particular place. Does this lack of direct evidence foreclose your ability to obtain a search warrant, or on the other hand, may probable cause to search be inferred based upon the existence of certain facts and circumstances? If so, what factors have the courts considered important in drawing such an inference? Two cases, in which contrary results were reached, illustrate the problem well. They are *United States* v. *Haala*[1] and *United States* v. *Charest*,[2] both Federal cases, from the 10th and 1st circuits, respectively.

In *United States* v. *Haala*, the victim of the crime received a package at her home in Oklahoma sent through the mail from Missouri. It exploded upon opening. An examination of the inner wrappings of the package disclosed latent fingerprints which matched those of the defendant, whom the victim had suspected of being responsible for the act. The victim's suspicions were based, among other things, on an affair the defendant was having with her husband. It was also learned that the defendant was a science teacher who would have the knowledge necessary to construct a bomb of the type employed. Although the postal inspector investigating the case had no evidence based upon direct observation that evidence of the crime was located at any particular place, warrants were nevertheless applied for to search the defendant's automobile, her apartment in Minnesota, and her dormitory room at a university in Iowa, based upon the above facts. The search disclosed several items of incriminating evidence in all three places, which were introduced at the trial resulting in defendant's conviction. On appellate review of the question of probable cause for the searches, the court, without much discussion, found the evidence for probable cause "cogent, indisputable, trustworthy and overall substantial."[3]

Although the court in *Haala* had no trouble in finding probable cause, the case of *United States* v. *Charest* expresses the opposite treatment accorded to the problem by the courts. In *Charest*, the victim was murdered by means of a .38-caliber handgun. An eyewitness to the murder was later uncovered and named the defendant as having committed the murder. A warrant was sought to search defendant's home for the weapon. Again, as in *Haala*, no one had seen the weapon at the premises to be searched. The court found the search warrant invalid and suppressed the evidence seized in the search on the basis that probable cause for the search was lacking. The court pointed out: "Common sense tells us that it is unlikely that a murderer would hide in his own home, a gun used to shoot someone."[4]

Why did the courts treat these cases differently? What factors have the courts looked to as important or controlling in resolving these cases? This article identifies such factors, and in so doing, provides some guidance to law enforcement officers in drafting affidavits for search warrants in cases where there is no direct evidence linking the item sought with the place to be searched.

Before offering such guidance, it is necessary to recount some basic legal principles that will guide the discussion.

First is the firm doctrine that probable cause to arrest an individual does not ipso facto equal probable cause to search any place connected with that individual;[5] different conclusions must be drawn for each determination. For arrest, the conclusion must be drawn that a crime has been committed and that the suspect has committed it; for search, it must be concluded that the evidence sought is presently located in the place to be searched.[6]

The second principle is that probable cause can, in fact, be inferred from other facts and circumstances and need not be based on direct observation.[7] However, the problem is a little more troublesome when attempting to infer probable cause to search as opposed to probable cause for arrest. For instance, where a suspect's fingerprints are found at the crime scene, probable cause for his arrest will usually be present and will continue to exist. However, evidence which was in the suspect's possession at the time of the crime—whether fruits, instrumentalities, contraband, or mere evidence—will not necessarily continue to exist, or to exist at any particular place. The fruits of the crime may quickly be turned into other property, such as where stolen goods are sold for cash. The instrumentalities of the crime may be destroyed. Even if such articles are not changed in form or destroyed, conceivably there are a multitude of places where they may be concealed. This is where a third principle comes into play, namely, that the standard of proof for a search warrant is probable cause, not certainty, and therefore, search warrants will issue where the likelihood exists that the items to be searched for are in existence at a particular place.[8]

Lastly, the principles announced by the Supreme Court as applicable to the review of affidavits by appellate courts are an important consideration. These principles may be summarized as follows:

1) Affidavits for search warrants are to be tested and interpreted by reviewing courts "in a commonsense and realistic fashion";[9]

2) Deference is to be paid a magistrate's determination of probable cause, and reviewing courts are to sustain that determination in doubtful or marginal cases;[10]

3) Only facts disclosed to the magistrate at the time of application for the warrant may be considered in the assessment of probable cause for the warrant. Facts not made known to the

". . . probable cause to arrest an individual does not ipso facto equal probable cause to search any place connected with that individual. . . ."

magistrate cannot serve to support a warrant.[11]

Having established the principles applicable to the inquiry, the next step is to examine the factors considered important by courts in inferring probable cause to search. It is interesting to note that there are no Supreme Court decisions directly on point and that most of the cases in this area are of fairly recent vintage, having arisen primarily since the time of *Chimel* v. *California*,[12] which limited the area of search incident to arrest and indirectly lent greater emphasis to the warrant requirement.

Perhaps the most frequently cited case on this subject is that of *United States* v. *Lucarz*[13] because of the factors it indicated as having controlled the outcome of previous cases. In *Lucarz*, a postal employee was suspected of stealing registry envelopes containing the previous day's proceeds from the sale of stamps. Evidence indicated that the employee left the building for a time during the day of the theft. Other evidence was developed pointing to his involvement in the theft. However, no one had seen the envelopes in the employee's house or had even seen him enter the house with the envelopes. Nevertheless, a search warrant was sought and obtained for the employee's home. Execution of the warrant resulted in the recovery of $29,000 in currency. The court upheld the magistrate's determination of probable cause on the basis that the items sought under the warrant were "the sort of materials that one would expect to be hidden at appellant's place of residence, both because of their value and bulk."[14] In so holding, the court stated as follows:

> "The situation here does not differ markedly from other cases wherein this court and others, albeit usually without discussion, have upheld searches although the nexus between the items to be seized and the place to be searched rested not on direct observation, as in the normal search-and-seizure case, but on the type of crime, the nature of the missing items, the extent of the suspect's opportunity for concealment, and normal inferences as to where a criminal would be likely to hide stolen property."[15]

Although *Lucarz* was a case in which stolen property was sought, the test has been extrapolated to other situations in which contraband or mere evidence is sought.[16] It is useful to look at the manner in which the courts have applied the factors cited in *Lucarz*.[17] The first two factors may be treated together.

Type of Crime; Nature of Item Sought

In the *Charest* case, where the crime was a single murder and the item sought was a single handgun, the court concluded that it was not likely that the defendant would have maintained the traceable murder weapon in his residence. However, in *United States* v. *Kalama*,[18] where the criminal activity was a continuing one (defendants were alleged to have committed 11 armed robberies), the court observed that it was a commonsense inference that the spree was likely to continue, that the weapons used in committing the robberies would be retained, and that they were likely to be found in the motel room for which a key was found upon defendants' arrest.

This is not to imply that courts have taken a firm stance in not inferring probable cause to search for instrumentalities of a single crime, for in *United States* v. *Bowers*,[19] also involving a single shooting, the court upheld a finding of probable cause to search for a handgun and other specified evidence tied to the shooting at the defendant's residence.[20]

In dealing with the subject of "staleness" of probable cause,[21] courts have sometimes drawn a distinction between items which are incriminating in themselves and those that are not. Such distinction also seems pertinent here. Thus, in *United States* v. *Steeves*,[22] involving a warrant authorized search at defendant's home for bank robbery loot, a bank bag, a handgun discharged during the robbery, clothing, and a ski mask worn during the robbery, the court concluded:

> "We think that it may be conceded to the defendant that [three months after the bank robbery] . . . there was little reason to believe that any of the bank's money or the money bag would still be in the home. But, the same concession cannot be made with respect to the revolver, the ski mask, and the clothing. The ski mask and the clothes were not incriminating in themselves, and . . . the pistol was not unlawful in itself or particularly incriminating. Moreover, people who own pistols generally keep them at home or on their persons."[23]

When the evidence sought is business records prepared in the ordinary course of business, the Supreme Court in *Andresen* v. *Maryland*[24] indicated in a footnote dealing with "staleness" that "[i]t is eminently reasonable to expect that such records would be maintained in those offices [where prepared]. . . ."[25]

When the item sought is money, courts have usually considered the home to be the likely place for its retention,[26] as illustrated by the case of *United States* v. *Archer,*[27] where bribe money was paid to an assistant district attorney in the Queens, N.Y., District Attorney's Office. A search warrant was obtained to search for the money at the district attorney's home. On review of the warrant on appeal, the court found that the magistrate had a substantial basis for concluding that defendant "would keep the money in his home rather than chance almost certain discovery, or at the least, cause suspicion, should he try to deposit this cash in a bank."[28] The validity of the warrant was upheld.

Opportunity for Concealment

This is a logical factor that has not merited much attention by the courts. It is clear that if a suspect were arrested in his vehicle shortly after the commission of a theft, probable cause to search his vehicle for evidence relating to the theft may exist.[29] However, since there was not yet an opportunity for him to conceal the evidence in other locations, no probable cause would exist to search other locations.

Normal Inferences as to Where a Criminal Would Be Likely To Hide the Property Sought

This last part of the *Lucarz* test has been the most important element simply because it is the ultimate conclusion to be reached and depends upon the other indicated factors, such as the nature of the crime and the type of evidence sought. As such, many cases have simply concluded that it was a fair inference to believe that the items to be seized were at the particular place to be searched, usually the suspect's home, without a great deal more evidence than strong probable cause to believe the suspect committed the crime.[30] Other courts, such as *Charest,* cited above, have not been so ready to make the inference. Nor was the court in *United States* v. *Flanigan,*[31] where it was concluded that the fact that a person had committed a burglary, plus possession by him of some of the goods when arrested, did not in itself constitute probable cause to search his residence for the remainder of the goods (jewelry). The court stated that "[i]t would be inappropriate for us, in this case, to attempt to spell out what might tip the scales. What we do decide is that what was here presented . . . is not enough."[32]

From a comparison of cases like *Charest* and *Flanigan* with cases such as *Haala* and *Lucarz,* it is clear that a "normal inference" to one court means something different to another. Nevertheless, an examination of the cases in which the magistrate's determination of probable cause has been upheld reveals that perhaps other more subtle factors have been present in some of the cases which may have "tipped the scales," to use the words of *Flanigan,* in favor of the reviewing court's finding of probable cause.

Most Likely Place

The fact that the place to be searched appears to be the most likely in which to find the evidence sought has been a factor that has seemed to influence the courts. In *United States* v. *Melvin,*[33] defendant was implicated in the bombing of his own tavern. Of the three places with which he had a connection, namely, his home, automobile, and tavern, the court reasoned that his home, which had been the subject of search under a warrant, appeared to be the most likely place in which to search for evidence relating to the construction of the bomb. The court based its decision on the fact that the affidavit for the search warrant stated that bomb squad officers had indicated that the type of bomb employed would generally have been assembled in a workshop as opposed to a vehicle. Secondly, the court found that the other possible location—the defendant's tavern—was not as likely a place for the construction of a bomb because, being a public tavern, it was subject to regulatory inspections which may have uncovered its making. The court thus concluded that the evidence was sought in the location in which it was most likely to be found and thus upheld the warrant.

Similarly, in *United States* v. *Belcufine,*[34] another bombing case, it was demonstrated that the place to be searched was the most likely place for the evidence sought. The defendant was implicated through fingerprints and other evidence in the bombing of a competitor's business. Soldering was employed in constructing the bomb. The victim stated that the defendant had electrical wiring experience and was apt to have a workshop at his place of business where soldering could be done. Postal inspectors included these facts in their affidavit seeking to search the defendant's business for evidence of the bombing. The court held, without discussion, that "these facts viewed in a commonsense manner were sufficient to establish probable cause. . . ."[35]

"Accumulation of evidence tying the suspect to the place to be searched and the goods to that location is important."

The fact that authority is sought to search more than one place for the evidence, however, has not been treated by the courts as fatal,[36] as demonstrated by the above-cited *Haala* case. *Haala* is not unique, however. In *Porter* v. *United States*,[37] a search was upheld even though warrants were issued to search two vehicles belonging to the defendant. In *Commonwealth* v. *Davis*,[38] warrants issued to search four places (two residences and two vehicles of defendant) were upheld. In both *Porter* and *Davis* the evidence sought was a gun used and clothing worn during a robbery.

Where the facts indicate that one place appears to be significantly more likely to contain the evidence than another, some courts have indicated that the former must be searched first before applying for a warrant to search the latter.[39] *State* v. *Joseph*[40] is illustrative. There, a warrant was sought to search defendant's car for counterfeit money that he was seen selling from such car a few hours earlier. A warrant was also sought to search the home of defendant's parents where the car was parked. The court struck down the warrant for the parent's home, indicating that the vehicle was the more likely place. "There is a lack of any factual data that would give rise to a probability of a transfer of the bogus cash from the vehicle to the home."[41]

Connection of Place To Be Searched to Defendant

Unlike the *Porter* decision, mentioned above, where it was alleged that the two vehicles to be searched belonged to the defendant, no such allegation was made in *United States* v. *Bailey*.[42] In *Bailey*, defendants were arrested for a bank robbery which had occurred 6 weeks earlier. Defendant *Bailey* was arrested in an automobile; codefendant *Cochran* in a house. Search warrant applications were made for both the car and the house. The court refused to uphold the warrants, stating that with respect to the car, there was no indication that defendant *Bailey* owned it, had been seen in it prior to the robbery, or that it had been used in the robbery. With respect to the search of the house, the court found the probable cause to be no better:

> "The affidavit simply discloses that Bailey had been seen at the house and that Cochran was arrested there. No facts are recited from which it could be inferred that Bailey and Cochran were other than casual social guests at the residence. At the trial, there was evidence that Bailey and Cochran had leased the house, but that fact was not before the issuing magistrate."[43]

Connection of Place To Be Searched to Illegal Activity

In narcotics cases, where there is no information tying the drugs to the suspect's premises, warrants to search the premises for the contraband have been struck down as lacking probable cause.[44] However, where the officer has seen the suspect leave his home and then has seen an apparent narcotics transaction take place,[45] or where the suspect indicated that if narcotics were needed to call him at home,[46] the courts have found probable cause to search his residence.

Experience and Expertise of Officer

Where affiants have alleged in a search warrant application that it was their experience that the type of items sought would be found at a particular location, the courts have accorded these statements weight. In *United States* v. *Spearman*,[47] the affidavit alleged that an informant had purchased narcotics at defendant's apartment and that the affiant had seen defendant in a particular automobile on numerous occasions; no specific information was alleged, however, that narcotics were ever seen in the car. Warrants were sought to search not only the apartment but the car as well, with the officer including the following statement with the above facts: "It is commonplace for dealers of heroin to have heroin that is packaged for sale in the place where they live or sell from, in their vehicles or on their persons."[48] The court sustained the warrant, concluding that the magistrate was justified in inferring that the automobile would also contain heroin.

It appears that an even better showing is made where the officer can cite some further facts upon which his experience statement is based. In *United States* v. *Trott*,[49] for example, it was alleged that the type of evidence to be searched for (records and ledgers of drug transactions at defendant's home) was seized from a codefendant's home previously in connection with an arrest.

Miscellaneous Factors

Other circumstances which are common to most cases upholding searches of this type are:

1) Generally, there is ample probable cause to believe the person whose premises are to be searched committed the crime;[50]

2) The searches are done pursuant to warrants, thereby having a judicial sanction for the search; and

3) The premises are those of the suspect and not those of a third party.[51]

This is not to suggest that the above conditions are critical because, for instance, probable cause to search can exist independently of probable cause to arrest.[52] Nevertheless, these factors are common to almost all of the decided cases addressing this issue.

Conclusion

An officer contemplating a search where personal observation of the articles sought is lacking should be mindful of the factors which have influenced the courts in sustaining searches of this type. If the officer has adduced facts to indicate that the place to be searched is the most likely place for the evidence to be, these facts should be clearly noted in his affidavit. An officer's experience as to where he has found such evidence in the past may be taken into consideration by a magistrate and should be detailed. Accumulation of evidence tying the suspect to the place to be searched and the goods to that location is important. Careful drafting of the affidavit cannot be overemphasized; more artful preparation may have led to a different result than that reached in *United States* v. *Bailey*.[53] Authority for searches based on inferences is abundant. It remains for the law enforcement officer to use his investigative and drafting skills in supplying the magistrate with a persuasive set of facts upon which probable cause may be found and upheld upon review. **FBI**

Footnotes

[1] 532 F. 2d 1324 (10th Cir. 1976).

[2] 602 F. 2d 1015 (1st Cir. 1979).

[3] *Supra* note 1, at 1328.

[4] *Supra* note 2, at 1017.

[5] *Zurcher* v. *Stanford Daily*, 436 U.S. 547, 556 n. 6 (1978).

[6] *Id.*

[7] *Johnson* v. *United States*, 333 U.S. 10, 13–14 (1948); *United States* v. *Lucarz*, 430 F. 2d 1051, 1055 (9th Cir. 1970).

[8] *Spinelli* v. *United States*, 393 U.S. 410, 419 (1969); *Porter* v. *United States*, 335 F. 2d 602, 604–05 (9th Cir. 1964), *cert. denied*, 379 U.S. 983 (1965).

[9] *United States* v. *Ventresca*, 380 U.S. 102, 108 (1965).

[10] *Id.* at 109. Many appellate decisions on this subject have indicated that the cases before them were "close," but sustained the warrants on the basis of these two principles emanating from the *Ventresca* decision. *See e.g.*, *United States* v. *Melvin*, 596 F. 2d 492, 498 (1st Cir.), *cert. denied*, 100 S. Ct. 73 (1979); *United States* v. *Brown*, 584 F. 2d 252, 257–58 (8th Cir. 1978), *cert. denied*, 440 U.S. 910 (1979).

[11] *Whiteley* v. *Warden*, 401 U.S. 560, 565 n. 8 (1971); *Aguilar* v. *Texas*, 378 U.S. 108, 109 n. 1 (1964). The outcome of at least one appellate court case appears to have been affected by the failure of the officers to explicitly set forth the known facts in their affidavit. *See United States* v. *Bailey*, 458 F. 2d 408 (9th Cir. 1972).

[12] 395 U.S. 752 (1969).

[13] 430 F. 2d 1051 (9th Cir. 1970).

[14] *Id.* at 1055.

[15] *Id.*

[16] *United States* v. *Brown*, 584 F. 2d 252 (8th Cir. 1978), *cert. denied*, 440 U.S. 910 (1979) (contraband); *United States* v. *Scott*, 555 F. 2d 522 (5th Cir.), *cert. denied*, 434 U.S. 985 (1977) (mere evidence).

[17] However, even courts which apply the *Lucarz* test do not generally subject the facts before it to a penetrating analysis under this test. Nevertheless, it is clear that these factors do have a bearing on the probable cause determination. *See, e.g., United States* v. *Pheaster*, 544 F. 2d 353, 373 (9th Cir.), *cert. denied*, 429 U.S. 1099 (1977).

[18] 549 F. 2d 594 (9th Cir. 1976), *cert. denied*, 429 U.S. 1110 (1977).

[19] 534 F. 2d 186 (9th Cir.) (per curiam), *cert. denied*, 429 U.S. 942 (1976).

[20] The *Charest* court distinguished *Bowers* on the basis that in *Bowers* the search was for not only a single handgun but for other items as well. *Supra* note 2, 1017. It is questioned, however, whether this is a meaningful distinction, since the *Bowers* court could have invalidated the search for the handgun for want of probable cause, while upholding the search for the other items. Such a conclusion would be based on the principle that where an affidavit states probable cause for the search for some items, but not others, the seizure of those for which probable cause exists is lawful. The other evidence is subject to suppression for lack of probable cause. *See* 2 W. LA FAVE, Search and Seizure sec. 4.7 (f) (1978) (hereinafter cited as LA FAVE).

[21] "Staleness," the concept that probable cause for search may dissipate with the passage of time, is an additional, highly relevant factor in assessing probable cause to search. For a discussion of the doctrine of "staleness" see 1 LA FAVE sec. 3.7 (a).

[22] 525 F. 2d 33 (8th Cir. 1975).

[23] *Id.* at 38.

[24] 427 U.S. 463 (1976).

[25] *Id.* at 478 n. 9.

[26] *See, e.g., United States* v. *Mulligan*, 488 F. 2d 732, 736 (9th Cir. 1973), *cert. denied*, 417 U.S. 930 (1974) (bank burglary loot).

[27] 355 F. Supp. 981 (S.D.N.Y. 1972), *rev'd on other grounds*, 486 F. 2d 670 (2d Cir. 1973).

[28] *Id.* at 990.

[29] *Chambers* v. *Maroney*, 399 U.S. 42, 47–48 and n. 6 (1970).

[30] *See, e.g., United States* v. *Pheaster*, 544 F. 2d 353, 373 (9th Cir.), *cert. denied*, 429 U.S. 1099 (1977); *United States* v. *Archer*, 355 F. Supp. 981, 991 (S.D.N.Y. 1972), *rev'd on other grounds*, 486 F. 2d 670 (2d Cir. 1973).

[31] 423 F. 2d 745 (5th Cir. 1970).

[32] *Id.* at 747.

[33] 596 F. 2d 492 (1st Cir.), *cert. denied*, 100 S. Ct. 73 (1979).

[34] 508 F. 2d 58 (1st Cir. 1974). Another interesting bombing case from the first circuit is that of *United States* v. *Picariello*, 568 F. 2d 222 (1st. Cir. 1978).

[35] 508 F. 2d at 62.

[36] It appears that there is no case which directly holds that probable cause means more than 50 percent probable. See 1 LA FAVE sec. 3.2 n. 150. In this connection, with respect to inferring probable cause to search, Professor LaFave states as follows:

> "To the extent such rulings permit searches to be made upon something less than a 50% probability as to any one particular place [of the suspect], they do not appear objectionable. The fact remains that it is unlikely that the privacy of an innocent person will be disturbed under such circumstances." 1 LA FAVE sec. 3.2, at 487.
>
> "On the other hand, something more might be required where one of the possible hiding places is that of a possibly innocent party." *Id.* at n. 154.

[37] 335 F. 2d 602 (9th Cir. 1964), *cert. denied*, 379 U.S. 983 (1965).

[38] 466 Pa. 102, 351 A. 2d 642 (1976).

[39] However, where the more likely place is that of a third party, Professor La Fave suggests that it would nevertheless be more reasonable to search the defendant's premises first than that of the third party for the evidence sought. See 1 LA FAVE sec. 3.2 at 489–91 and n. 166.

[40] 114 R.I. 596, 337 A. 2d 523 (1975).

[41] 337 A. 2d at 527.

[42] 458 F. 2d 408 (9th Cir. 1972).

[43] *Id.* at 412.

[44] *See, e.g., United States* v. *Gramlich*, 551 F. 2d 1359 (5th Cir.), *cert. denied*, 434 U.S. 866 (1977); *Commonwealth* v. *Kline*, 234 Pa. Super. 12, 335 A. 2d 361 (1975).

[45] *United States* v. *Valenzuela*, 596 F. 2d 824 (9th Cir.), *cert. denied*, 441 U.S. 965 (1979).

[46] *Commonwealth* v. *Frye*, 242 Pa. Super. 144, 363 A. 2d 1201 (1976).

[47] 532 F. 2d 132 (9th Cir. 1976).

[48] *Id.* at 133.

[49] 421 F. Supp. 550 (D. Del. 1976) (mem.).

[50] *See, e.g., United States* v. *Haala, supra* note 1.

[51] For a case in which a third party search was upheld, see *United States* v. *McNally*, 473 F. 2d 934 (3d Cir. 1973).

[52] 1 LA FAVE sec 3.1.

[53] *Supra* note 42.

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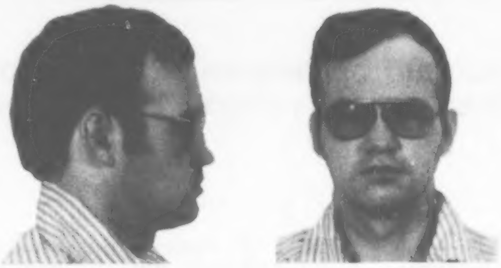
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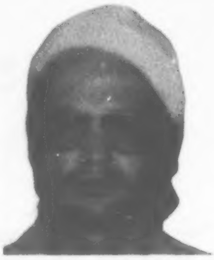
Photograph taken 1978.

Larry Porter Chism

Larry Porter Chism, also known as Gary Joseph Buomi, Gary Joseph Buoni, Larry Chism, and Larry P. Chism.

Wanted For:

Interstate Flight—Kidnaping, Theft of Property

The Crime

Chism, who is being sought as a prison escapee, was serving a lengthy sentence for armed robbery and kidnaping at the time of escape. He is reported to be a heroin addict and is alleged to have escaped custody by overpowering a deputy sheriff and subsequently kidnaping two individuals.

A Federal warrant for his arrest was issued on December 22, 1978, at Little Rock, Ark.

Criminal Record

Chism has been convicted of kidnaping, armed robbery, narcotics violations, and contributing to the delinquency of a minor.

Description

Age	31, born December 19, 1948, Forrest City, Ark.
Height	5′10″.
Weight	145 to 155 pounds.
Build	Medium.
Hair	Brown.
Eyes	Brown.
Complexion	Light.
Race	White.
Nationality	American.
Occupation	Cashier, clerk-typist, farmer, law student, logger, and salesman.
Scars and Marks	Birthmark on left thigh, scars on both arms.
Remarks	Reportedly wears thick lens glasses.
Social Security Nos. Used	431-82-5804, 431-82-5894.
FBI No.	367 973 N5.

Caution

Chism should be considered armed, dangerous, and an escape risk.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data:

NCIC Classification:
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Fingerprint Classification:

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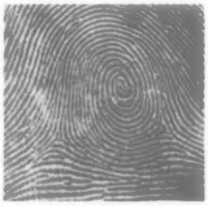
Right ring fingerprint.

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Investigation
Washington, D.C. 20535

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Title ______________________________

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……

Increase in Bombings

During the first 6 months of 1980, bombings increased 4 percent in volume as compared to the same period of 1979. Explosive bombings were up 6 percent, while the occurrence of incendiary incidents remained relatively stable.

Of the 616 bombings that occurred in the United States and Puerto Rico, 420 were explosive and 196 were incendiary in nature. In some instances, more than one device was used; 451 devices were used in the 420 explosive bombings and 250 devices were used in the 196 incendiary attacks.

The incidents resulted in 12 deaths, 70 injuries, and over $3.3 million damage in property. Two-thirds of the fatalities, 8 of the 12, were the subjects themselves. Three of those killed were the intended victims and one was an innocent bystander. The 70 people injured as a result of the bombings was a decrease from the 85 injured in the first half of 1979. More than half of those injured were innocent bystanders, while bombing perpetrators themselves constituted 31 percent of the victims.

Regionally, within the United States, the Western States had 222 bombings; the North Central States, 172; the Southern States, 155; and the Northeastern States, 65. Puerto Rico reported 2 bombing incidents.

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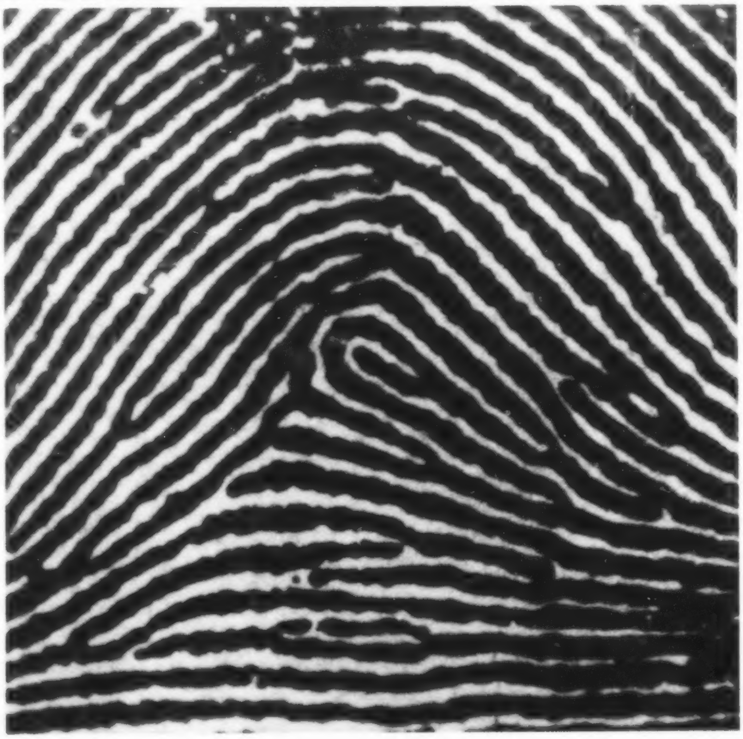

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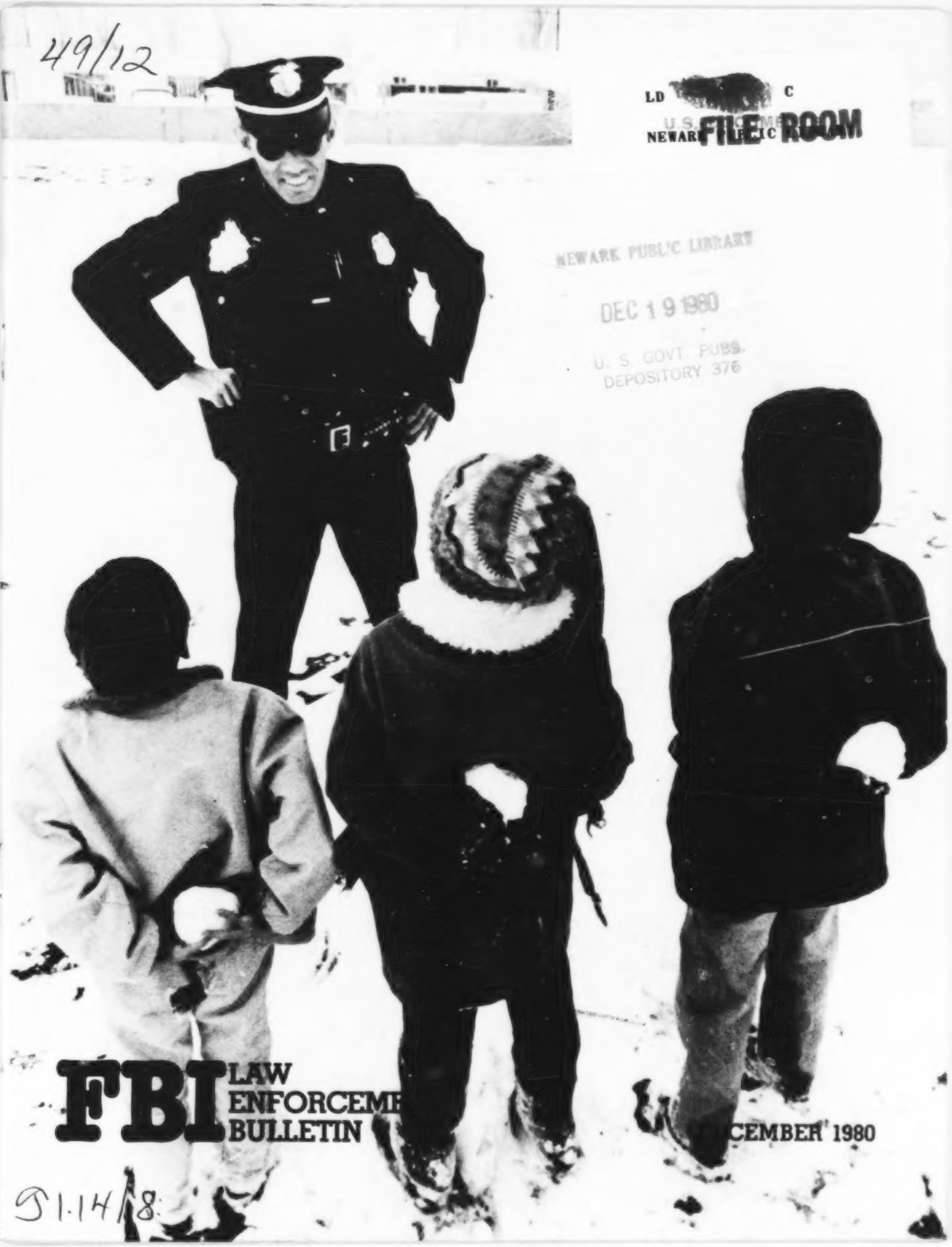

FBI LAW ENFORCEME BULLETIN

CEMBER 1980

J1.14/8:

Director's Message

The costs of organized crime in this country can be measured in the millions of dollars, but the human costs are far more devastating. The use of violence, the corruption of public and labor officials, the loss of tax revenue—all degrade our quality of life.

Organized crime groups are, of course, attracted to activities that involve significant sums of money—gambling, loansharking, narcotics, stolen securities, arson-for-profit, pornography, labor racketeering, extortion, truck hijackings, cigarette smuggling, bankruptcy scams, and systematic theft. The FBI defines organized crime groups as criminal organizations having some manner of formalized structure and whose primary objective is to obtain money through illegal activities. Such groups maintain their position through violence or threat of violence, corrupt public officials, graft or extortion, and generally have a significant impact on the people in their locale, or region, or the country as a whole.

Organized crime is not monolithic. There are many varieties of criminal groups that fit the definition. There does exist, however, one organized national criminal group, consisting of a confederation of 27 "families" operating under similar organizational structure and methods. There is substantial evidence of a "commission" which resolves "interfamily" jurisdictional disputes, decides major policy issues, and ratifies new "bosses."

While most heavily concentrated in the Northeast, it has elements in the majority of States. In the aggregate, it has over 2,000 hardcore members who are involved in illegal activities ranging from loansharking, narcotics, and illegal gambling to control over large segments of ostensibly legal businesses, such as vending and waste collection. These families have also worked their way into ownership of a wide variety of retail businesses—restaurants, bars, hotels, and trucking, food, and manufacturing companies.

The initiated membership of 2,000 must be multiplied by 10 to include those who assist these families in their illegal activities. These are our estimates and they are, if anything, conservative.

There are also significant organized crime operations carried on by other organized groups of various geographical, ethnic, and racial backgrounds. Identified groups range from motorcycle gangs, such as the Hell's Angels and the Banditos headquartered on the west coast and in the Southwest, to highly sophisticated narcotics cartels centered in the Southeast, West, and Southwest.

Consider some of the impact of organized crime on our society:

—Graft and corruption undermine government, making the citizenry cynical and suspicious.

—Labor racketeering deprives members of fair representation and drains pension and welfare funds.

—Use of laundered funds to cover overhead allows organized crime to gain monopolies over legitimate businesses.

For these reasons, organized crime is one of the three top investigative priorities of the FBI.

William H Webster

William H. Webster
Director
December 1, 1980

FBI LAW ENFORCEMENT BULLETIN

DECEMBER 1980, VOLUME 49, NUMBER 12

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THE COVER: At times, winter presents unique hazardous duty for the law enforcement officer. (Photo by Norm Bergsma, Albuquerque Tribune)

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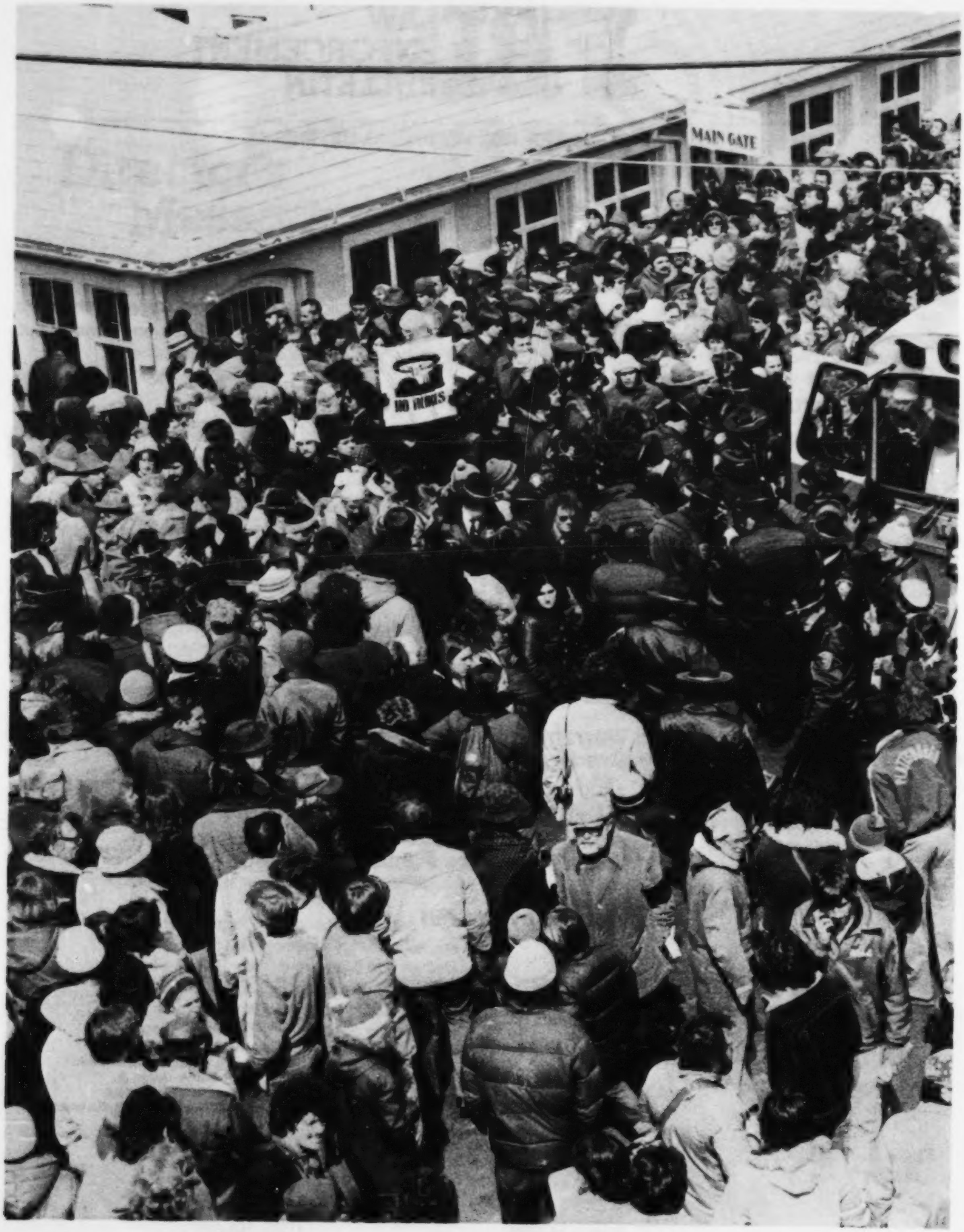
MAIN GATE
NO NUKES

Crowd Control and the Small Police Department

By JOSEPH A. SANDORA

Chief of Police
City of Groton, Conn.

And RONALD C. PETERSEN

Director
Law Enforcement Council of
Eastern Connecticut
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The City of Groton is a community with a population of approximately 10,000 located along the shore of the Thames River and Long Island Sound in southeastern Connecticut. The city's 27-man police department faces problems common to most communities of this size—residential burglaries, vandalism, traffic accidents, barking dog complaints, etc. The department is organized into patrol and detective divisions. It also has a support services unit, a traffic and training unit, a marine patrol unit, and on a contingency basis, a scuba diving unit and an FBI-trained crises response team.

What is different about Groton City is that Electric Boat Division of General Dynamics Corp. is located within its borders. Electric Boat employs approximately 25,000 people who are engaged in building most of the nuclear submarines for the U.S. Navy.

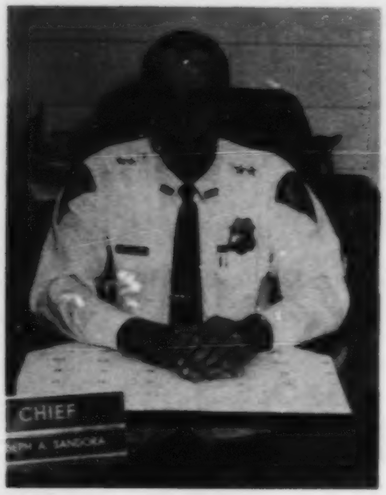
One of the submarine classes built by Electric Boat, the Trident, has become a symbolic target to many antinuclear and antiwar groups throughout the country. The Trident is the largest submarine ever built by any government. It is 560 feet long and is capable of delivering a devastating nuclear blow to any potential enemy. The ceremonies held in conjunction with launching these submarines make ideal forums for massive antiwar and antinuclear demonstrations. Electric Boat generally invites up to 20,000 guests to these launching ceremonies, frequently including national political figures.

In April of 1979, a dual ceremony marking the launching of the first Trident submarine, the U.S.S. Ohio, and the keel laying of the U.S.S. Georgia was held. Approximately 20,000 guests attended the ceremony. Speakers included First Lady Roslynn Carter and Ohio Senator John Glenn. Occurring within weeks of the Three Mile Island incident, the ceremony was besieged by approximately 4,000 demonstrators representing antinuclear and antiwar organizations from all over the country. Two hundred and thirty-six persons were arrested for nonviolent acts of civil disobedience. These individuals attempted to disrupt the ceremony by blocking the streets and sidewalks leading to the gates of the shipyard. Groups of 8 to 12 demonstrators sat in the path of guests who were walking into the ceremony. These groups, known by the demonstrators themselves as "affinity groups," were often bound together with chains or handcuffs and went "limp" at the point of arrest. Chains or handcuffs had to be cut with boltcutters, and the arrestees had to be carried away by police officers to waiting vans and buses. All demonstrators who participated in affinity groups had received training in nonviolent civil disobedience.

In April of 1980, the launching of the Nation's second Trident submarine, the U.S.S. Michigan, was held. Approximately 1,200 demonstrators marched on this ceremony, the number somewhat reduced by a nationwide antinuclear demonstration held in Washington, D.C., on the same weekend. While the total number of demonstrators was less, nearly the same number, 211, were arrested for acts of civil disobedience. Those arrested used the same type of tactics that were used in the 1979 demonstration.

Electric Boat currently has contracts to construct several more Tridents. Furthermore, it is likely that the Navy will continue the Trident program beyond current contracts, and Electric Boat will be a prime competitor. Thus,

"The planning process. . . stressed a high degree of communication between all agencies involved."



Chief Sandora

Mr. Petersen

a major problem facing the Groton Police Department is how a 27-man police department develops procedures for handling massive, complex crowd control situations as described above on a regular basis. The following principles and procedures were adopted:

1) Adopt the proper perspectives. The role of police in this type of situation is to protect the life, safety, and property of all involved. This is a *neutral* role—don't adopt a "we/they" stance or a "siege mentality." The fact that some demonstrators choose to break the law by committing acts of civil disobedience does not alter other demonstrators' rights to demonstrate peacefully.

2) Communicate this perspective to all police personnel. Make it clear that unnecessary force will not be tolerated.

3) Communicate with the demonstrators. Once the leaders of demonstrating groups are convinced that the police intend to protect their rights, they are usually cooperative. During our planning process, regular dialog was maintained with these leaders. They readily provided accurate information on their plans, tactics, and number of demonstrators expected. In fact, one antinuclear group conducted a training program on civil disobedience for police personnel. This was the same training program given to those planning to be arrested at the next demonstration and proved very useful in understanding the methods and tactics used by the demonstrators.

4) Develop intelligence sources. Leaders of major demonstrating groups do not have complete control over their organizations. The activities of splinter groups and individuals are unpredictable. Thus, well-placed intelligence sources are vital.

5) Get plenty of help. Eight police departments in the southeastern Connecticut region have signed the "mutual police assistance compact," which provides the legal and procedural framework for assisting one another. In the case of the two demonstrations cited above, the entire police department from the neighboring Town of Groton (a separate municipality) was deployed in the operation. Other area departments went on "standby" status and some were eventually mobilized.

The Connecticut State Police were contacted early in the planning stages. They provided personnel to staff the booking and processing center and a backup contingency of troopers. The State attorney's office provided personnel to act as observers and to assist in the booking process.

6) Based on the experience in Groton City, we assert that there is no such thing as too much preparation. The planning process employed stressed a high degree of communication between all agencies involved. This included other area departments, the State police, the State attorney, the Coast Guard, Electric Boat company officials, local jail officials, Naval Intelligence, the City Highway Department, and numerous other agencies. Issues to be decided ranged from major ones, such as how police personnel would be deployed, to seemingly minor ones,

such as whether there were enough booking forms for the booking and processing center. The location of prison vans, placement of barricades, the closing of streets, the transportation of dignitaries, and the distribution of equipment were among the issues to be decided.

A significant problem during the 1979 demonstration was dealing with the press. Approximately 170 press personnel covered the event; a 27-man police department is not accustomed to dealing with national press coverage of this magnitude. Out-of-town press personnel, unfamiliar with local police officials, were attempting to secure information and interviews from individual police officers. In order to alleviate this problem in the 1980 demonstration, an employee from another city department (who had a background in press coverage) was designated as press officer. This individual was fully briefed on the police operation and attended every planning session. All press and police personnel were advised in advance that all information would be released to the press by the press officer. This procedure allowed the press to obtain information without disrupting operations.

7) Learn from experience. During the entire process, the chief of police, the deputy chief, and the director of the law enforcement council maintained detailed logs. These logs included every phone call made or received in connection with the demonstration, minutes of all planning meetings, records of all actions taken, and intelligence information received. The logs were maintained from the beginning of the planning process through the critique following each demonstration. The logs were combined into a comprehensive document recording the entire event. The document compiled for the 1979 Ohio demonstration proved invaluable in planning for the 1980 Michigan demonstration.

In addition, an observation team of area chiefs of police was organized. These chiefs were stationed at strategic locations and asked to record their observations and suggestions. The State attorney for New London County and members of his staff were also observers. A formal critique was held following each demonstration involving all participating agencies and the observers. Many problems were identified and corrected in this manner, and much was learned to make future operations more efficient.

Conclusion

Is Groton City successful in handling major crowd control situations? As with any police situation, objective evaluation of success or failure is difficult. However, the following facts are noted: Both launching ceremonies were conducted without delay; guests were able to enter and exit the shipyard without major inconvenience; of nearly 450 arrests for acts of civil disorders, only one civilian complaint was received. (This was for excessive force and was dismissed as unfounded); and the demonstrators had ample opportunity to exercise their First Amendment rights.

Local reaction to the police response is best summed up by an editorial, "Police/Their Performance Saturday Was of Highest Order," which appeared in the area's major newspaper, the *New London Day*, in April 1979.

"Demonstrators who converged outside Electric Boat Saturday to protest the Trident program were American citizens expressing sincere and considered feelings, however much of those feelings differed from the 20,000 guests of the shipyard.

"The police contingents recognized this. They did not defer to the demonstrators, nor did they treat them with contempt. They regarded the protestors as human beings.

"Both sides respected each other. Both conveyed a message.

"The message of the more than 3,000 protestors was clear. But so was that of the police: We are here, they said by their firm but fair demeanor, to protect the public and property.

"In situations where arrests were necessary—and there were more than 200—the police, and the courts, acted with professional dignity. Demonstration leaders cooperated with the authorities to avert ugly confrontations.

"This could have been a trying experience for all concerned. But the way the police, and the courts, carried out their missions made it clear that this would be no Seabrook." **FBI**

The Chicago Crime Commission

"From its inception, the commission has taken fierce pride in being nonpolitical and independent."

The Chicago Crime Commission is the oldest operating crime commission in the United States and has been the model for similar commissions established in other cities—now some 22 across the country. One of the city's most respected and venerable institutions, it is not well known to the general public.

Working mostly behind the scenes, the Chicago Crime Commission monitors various processes of the

By PATRICK F. HEALY
Executive Director
Chicago Crime Commission
Chicago, Ill.

Mr. Healy

Chicago area's criminal justice system and initiates constructive change. The commission has no official status, no arrest power, no subpena power, and no court power. It does have what is probably the most important power of all—the power of public opinion.

The board of directors of the crime commission is among the most prestigious of any community organization in Chicago. It represents the very top establishment across the board—black, white, male, and female. Because of the members of the commission and the quality of work done by its staff, the Chicago Crime Commission is held in high esteem by law enforcement people throughout the country; immediate entry is provided to top government, police, and court officials.

One of the main functions of the commission is to maintain information regarding levels of crime in the community and the administration of criminal justice in order that citizens may make fair and intelligent judgments as to whether they are being well served by their public agencies. Since there is no central point of authority—agencies and departments deal with criminal justice in their own way—this is not an easy task. The public sector differs greatly from the private sector in management control. In business, a corporate official can easily ascertain whether the business as a whole is making a profit or experiencing a loss by checking the performance of corporate departments or divisions. In the public sector, the police report to one group, the courts to another, and the prosecutor to another. These agencies tend to report only data convenient for them to report, in terms that are most likely to be complimentary. The Chicago Crime Commission controls all information and budget requirements and develops all needed data for managerial analysis and decisions. The commission presently monitors 34 Federal, State, and local agencies dealing with criminal justice matters.

The commission analyzes problems indepth and makes proposals to responsible decisionmakers—the chief judge, the State's attorney, etc.—to convince them to adopt measures that will resolve the problem.

Sample program areas illustrate the importance of the commission to the community.

Monitoring Criminal Justice Agencies

A total of 34 Federal, State, and local agencies are monitored at different levels, enabling the commission to detect trends, anticipate possible trouble areas, and indicate points of greater investigation:

1) Felony trials in the Circuit Court of Cook County are observed. The commission has worked with the Cook County League of Women Voters in extending citizen court watching programs throughout the country;

2) Reviewing and recording, on a daily basis, all felony indictments returned by grand juries;

3) All orders entered in criminal cases by trial judges are recorded;

4) Weekly and monthly activity reports listing case dispositions by judges are received;

5) Individual offenders are indexed;

6) Daily call sheets for each U.S. district court judge hearing criminal cases are reviewed;

7) Monitoring and indexing, where appropriate, all proceedings and reports of criminal justice agencies, including the Illinois Department of Law Enforcement, the Chicago Police Department, the Illinois Law Enforcement Commission, the Chicago/Cook County Criminal Justice Commission, the Administrative Office of Illinois State Department of Corrections and the Cook County Board of Corrections, the Illinois Legislative Investigating Commission, and the Cook County Sheriff's Office;

8) Public media (including newspapers, radio, and TV) are monitored for reports on law enforcement and the courts, crime, and legislative or administrative actions affecting the administration of justice;

9) Proceedings of the Chicago City Council, the Cook County Board of Commissioners, the Illinois State Legislature, and the U.S. Congress dealing with criminal justice administration are reviewed and monitored.

10) Appellate court decisions in criminal cases in both State and Federal courts are monitored and reviewed. When cases arise that may have significant impact on the administration of justice, the commission may ask the court's permission to supply additional information either to the court itself or to the parties appearing in the case;

11) Direct intelligence information is obtained through staff investigators on organized crime in the Chicago area; and

"Other cities should seriously consider forming a crime commission— no better investment could be made."

12) Liaison is maintained through periodic conferences with key personnel in criminal justice agencies, including the U.S. Department of Justice, the Illinois Department of Law Enforcement, the Chicago Police Department, the Cook County Sheriff's Office, and private credit agencies.

Maintaining Crime and Agency Performance Statistics

Maintaining statistics on crime and agency performance leads the commission to specific studies, such as court delay, gun case sentencing, bond forfeiture guidelines, and rape prosecutions.

Computerized Case Assignment

The staff has worked with the Cook County criminal court in developing a completely automated case assignment system for the criminal courts. The first of its kind in the country, the system allows for computerized random assignment of judges. This equalizes case loads among the 42 criminal court judges, provides for better court recordkeeping, and because of the random nature of case assignments, prevents the appearance of impropriety in case assignment.

The Victim/Witness Reception Center

Developed by the commission, the victim/witness reception center is operated by the State attorney's office and volunteers of the Junior League of Chicago. Offices, rather than courtrooms, are used for witness preparation. Paraprofessionals answer questions and help solve problems.

The center has improved communication between witnesses and the justice system. It has reduced trial delays due to incourt briefing, and through a simple system of case scheduling, has streamlined the operations of the preliminary hearing court. There has been a 45-day reduction in the average age of cases at the completion of preliminary hearings. Following the success of the first victim/witness center, the commission worked with the Junior League of Chicago to establish a second center which opened in the spring of 1977 and processes 40 to 50 witnesses each day. The newest center is proving to be as successful as its model.

The Victim/Witness Pamphlet

The victim/witness pamphlet attempts to inform witnesses and victims regarding their rights and about what will occur in the court system. Conceived and prepared by the commission's staff, the pamphlet is currently being distributed by the Chicago Police Department to victims and witnesses of crime who are asked to come to court.

Criminal Identification System for Cook County

The commission has established a simple, fast, cost-effective criminal identification system in the five suburban court districts. Directly linked to the Bureau of Identification in Joliet, Ill., the system provides suspect identification through fingerprint comparison within 2 to 4 hours of inquiry. Suspects with criminal records or fugitives using aliases are now identified at the rate of four to six a week in each district. Prior to the system's installation, fugitives could not be identified until well after bond hearings had occurred, allowing them ample time to flee. Judges are now able to fix bail based on the suspect's prior record.

Criminal Identification System

This system, the first of its kind, provides a direct link between the suburban districts and the FBI's Identification Division. The program's success is evidenced by its adoption as a statewide program in Illinois and an intensive study by the FBI for possible nationwide implementation.

Suburban Crime Analysis System

The commission has begun a highly innovative and concentrated effort to help the 126 suburban law enforcement agencies coordinate with each other in order to reduce the suburban crime rate. Current focus is on developing a centralized criminal modus operandi file that will integrate incident reports originating in the suburbs, thus developing the capability to identify intersuburban crime patterns.

Sentencing

Commission studies demonstrated that to facilitate case processing, many judges base sentences on plea bargaining. As a result, the sentence neither fits the crime nor rehabilitates the criminal. Inappropriate sentences perpetuate the 75-percent recidivism rate. Many of the commission's proposed changes in sentence procedure were incorporated into the "class X" revision of the Illinois criminal code.

Witness Notification and Assistance

The commission notifies all complaining witnesses in felony cases (1,000 per month) of their initial pending court date. This is often the only notification the witness receives.

The commission also offers support to all complaining witnesses, answers questions for them, helps them with problems that may arise, and if necessary, facilitates cooperation between witnesses and justice agencies. Every year, approximately 1,000 victims and prosecution witnesses seek direct service from the commission.

Community Resource Program

The commission acts as a resource to community groups, such as block clubs and neighborhood associations. It provides them with information on crime in their neighborhoods, helps coordinate groups and assists them in developing self-help programs, such as "court watchers," "crime watch," etc.

Operation Crime Call—A 24-Hour Service

Citizens reluctant to report criminal activities to the authorities can report them to the commission via the operation crime call. The commission refers information of substance to the authorities and makes inquiries into system problems that are reported.

The Business Advisory Service

By using this service, businessmen can check on the possible syndicate connection of potential loan applicants, employees, clients, vendors, or business associates. The commission staff handles over 5,000 inquires a year from businesses located throughout the United States. This service has enabled companies and banks to avoid doing millions of dollars of business with the syndicate.

"Chicagoland Law Enforcement Week"

"Chicagoland Law Enforcement Week" is an annual public event sponsored by the commission to honor law enforcement officials and to inform the public on ways they can help law enforcement agencies in their community. In 1977, the commission initiated a campaign to secure public support for crime prevention, using the slogan "Crime Hits Everybody—Everybody Oughta Hit Back." The campaign has received national, as well as local, coverage.

Clipping Morgue on Criminal Justice Subjects

Through over 60 years of data collection, the commission has amassed a library of information on organized crime that is considered to be among the most extensive and authoritative sources of information on the syndicate in the United States.

The commission is accessed daily by law enforcement agencies—both local and Federal—seeking information on organized crime. It was used extensively by the Kefauver and McClellan Committees in the 1950's. More recently, the U.S. House of Representatives Select Committee on Assassinations made extensive use of the commission's file during their investigation into the Kennedy and King assassinations.

The commission also uses its data base to provide an ongoing information service to the community. Among those who use this service are:

1) Nationally known publications, such as *Time, Newsweek,* and *Reader's Digest;*

2) Local publications, such as the Chicago newspapers and *Chicago Magazine;*

3) Investigative reporters, locally and nationally;

4) Community groups, such as the League of Women Voters and the Junior League of Chicago;

5) Universities and colleges;

6) Other crime commissions and communities wishing to develop crime commissions; and

7) National and local law enforcement agencies.

In addition, the commission periodically issues reports or publications on criminal justice.

The litany of services and programs undertaken is testimony to the civic dedication of the commission's board, committees, and membership, whose motto is "shall do." From its inception, the commission has taken fierce pride in being nonpolitical and independent. Its existence is dependent solely on corporate and individual dues and donations, allowing the commission complete freedom to comment and/or criticize anything or anyone. The lack of Federal or State funds has, however, limited its growth. To the commission members and the business community, this is a small price to pay.

The Chicagoland business community has been supportive in its efforts to make the commission succeed over the years and has pledged to continue to expand these efforts. The board of directors and commission members are presently making plans to evaluate all existing programs and services to see if there are any ways to expand its resources. The Chicago Crime Commission will meet the challenge of the 1980's. Other cities should seriously consider forming a crime commission—no better investment could be made. **FBI**

Training

The use of VIDEO TAPE in Law Enforcement Training

By SGT. WILLIAM B. McDONALD

Police Department
Greenburgh, N.Y.

No one considers the programs appearing on a television screen to be the result of a magical sequence of events, but only a few of the millions of TV viewers have any idea as to how the image is produced. The same holds true for the American motorist. How many people who operate motor vehicles in the United States are familiar with, or even care, how their massive four-wheel steel machine functions? The point being, for most of us, it really doesn't matter. If it runs, we'll use it! So why not video?

This article is not intended to be a "how to" guide for the use of video, but a determined effort to project the concept equipollent to the cries of modern day law enforcement administrators desiring professional recognition in their field.

Yet, how many police administrations still lack adequate inservice training for departmental personnel? Or, for those who believe they are meeting necessary training requirements, are they paying vast sums of money for overtime, both for instructors and students?

In any situation requiring recurrent training, there is little that can be done to prevent spending funds for that purpose. The question is, "What is the most productive form of training for the least amount of dollars?" Wrong! It's not video![1] However, the proper use of video equipment can be extremely valuable in training, as well as other areas of law enforcement—crime scenes, voluntary confessions, and surveillance being just a few.

If one is willing, video training in law enforcement can be useful. However, its usefulness will be determined for the most part on the innovative qualities of the training director, the support of the police administrator, and the acceptance by the rank and file. Perhaps, Machiavelli in his work *The Prince* outlines the potential hazards:

> "There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things, because the innovator has for enemies all those who may do well under the old conditions, and lukewarm defenders in those who may do well under the new."

Typically, inservice training of law enforcement personnel is accomplished by a lecture-oriented presentation. This may be combined with films, slide presentations, or other suitable teaching aides. As this has been the primary teaching method used for centuries, it is difficult to criticize. And certainly, we cannot question the method with regard to its ability to transfer knowledge. However, certain subjects lend themselves to a video-oriented training concept that would actually intensify the learning process by presenting the same information given by a lecturer in a shorter period of time with greater comprehension. An example might be the correlation between a good novel and an excellent film portrayal. Many hours of reading are normally required to complete the book. In most cases it takes the reader a certain amount of time to become sufficiently engrossed in the dialog to reach a point in which he's psychologically living within the confines of the story line. In a film portrayal (using the hypothetical case whereby the film is as good as the book), the viewer may even be overcome by the aura of the opening titles. In under 2 hours, a story can be told with enough detail to stimulate the psyche of the viewer for days. Within the last few years, we've seen television movies that produce the same result in a much shorter period of time when commercials are taken into consideration.

Although some may believe that "commercial movies do not pretend, or convey the notion, that they are out to teach anybody or anything or . . . perform a service of any kind beyond that of entertainment,"[2] it should be obvious that "a picture is worth a thousand words."

Lt. John Fakler, commanding officer, AV/R Unit, Suffolk County, N.Y., Police Department, believes that a seven-to-one ratio exists between good roleplayed video training and lectures. It's a difficult theory to dispute since their recent production, "USE OF FORCE." This tape accurately teaches the entire concept of the New York State Penal Law, Section 35, which specifies the authorized use of force by law enforcement officers in any given situation. Their program, a three-part series, can be administered in under 1 hour and 10 minutes, including examinations. Correspondingly, I have observed an excellent lecture of the same material which took all of 8 hours to present accurately.

To take this point another step, consider a lecturer attempting to discuss the use of force allowable in the apprehension of a burglary suspect. What is the student visualizing when an instructor says, "If a perpetrator breaks into a home during the day . . ."? To be sure, each student is mentally envisioning a different house, a different floor, and a still different view of the method of actual entry (jimmying the door, breaking the window, etc.). Not that the different mental visualizations could cause a problem in defining the case, but the instructor may very often find himself doing a "one-on-one" with several students who might not relate to the instance.

In the tape, "USE OF FORCE," the student will see a white male exiting the 2-story frame building, carrying a televison set as police officers prepare to confront the perpetrator in the driveway. The narration during the scene simply says, "In burglaries of a residence during the day. . . ." There will be little, if any, room for doubt in the mind of the student in depicting the particular scene. Therefore, the instructional objectives may be met with little conflict.

Equipment Selection

Until a few years ago, the Law Enforcement Assistance Administration (LEAA) was a good source of funds for hardware expenditures. Specifically, police agencies could receive funds for physical devices used to upgrade the law enforcement arts.

In contrast, LEAA has now greatly restricted its cash flow to specific projects that may result in material beneficial to many law enforcement agencies as a result of research. Perhaps this is a more realistic approach to funding practices, but it certainly impedes the acquisition of needed equipment by small police agencies with extremely limited budgets. And unless an agency is willing to spend several thousand dollars, the present state of the art does not dictate the availability of quality production studio equipment.

As indicated previously, video training can be a financially viable approach to the budget crunch experienced by many agencies, if the concept of video training is properly administered. Quite possibly, many agencies interested in video training may have previously purchased equipment during the period LEAA was funding such individual ventures. The type of equipment available many years ago, however, may not be compatible with modern video equipment of today. This can effectively limit, and in some cases actually prohibit, the agency from using currently available tapes.

Many of the pre-1970 video players/recorders failed to follow industry standards in playback techniques. As a result, the user's machine was needed to play back tapes created on that machine, or perhaps limited use to a specific brand name. This happens even today with the new home video recorders!

Tape Recorder/Player

There are three basic categories of tapes used today by law enforcement agencies: ½-inch reel-to-reel, ¾-inch U-Matic cassette, and ½-inch cassette, with the latter falling into the home video classification. As a matter

Sergeant McDonald

Donald L. Singer
Chief of Police

of preference, ¾-U, as it is commonly known, appears to provide the user with a greater source of prerecorded tapes, as well as the potential for electronic editing. For this reason, the ¾-U format should be given the greatest consideration.

The recorder/player selection should be of primary consideration. Selecting a camera and monitor is fairly standard, in that neither rarely fails to function with the recorder/player choice. For all practical purposes, the recorder/player is the "heart" of the system. You can't do without it, yet it can "stand alone" and provide a playback-only capability if there are budget limitations.

There are many commercial sources for tapes; however, Federal, State, and municipal agencies who make their tapes available to other agencies, usually free of charge, should not be overlooked. It is, therefore, quite practical to consider purchasing a ¾-U player with no recording ability, which will still provide a viable video-oriented training program. The obvious disadvantage in selecting a player rather than a player/recorder is that the future ability of creating tapes, should the budget permit, does not exist.

Color vs. Black & White

All modern ¾-U and ½-inch cassette equipment have color capability. Color capability simply means that a video tape produced with a color camera will play back in color, if a color monitor is used. Conversely, a tape created with a black & white camera will play back in black & white, regardless of the monitor used.

It is suggested that a good black & white camera be purchased initially, if a department has had little or no experience in video. Besides the simplicity of operation, the black & white camera will provide more latitude for errors, and just as important, it will cost thousands of dollars less than a suitable color camera.

With black & white, only light and focus controls are of concern. Handling a black & white television camera is comparable to handling a 35mm camera, and eventually, a black & white camera will find its place in the equipment inventory, since there are many occasions in which the color camera would be too difficult to use.

Monitor

For the new user on a limited budget, nearly any television receiver will suffice. Obviously, if color tapes are to be used, a color television is needed.

Usually, a monitor option is available on the TV camera selected, which will permit you to see what you're taping in the field. For all practical purposes, the monitor used for training should have a screen size directly proportional to the number of viewers and the size of the room.

At the risk of becoming overly technical, the new user should be aware of some of the basic terminology and equipment connections to assist him when selecting equipment.

As mentioned, there are three basic pieces of equipment necessary to tape and view—television camera, video recorder/player, and monitor. Questions which must be asked and answered prior to the selection of the equipment can be critical.

The first consideration should be power. All three of the basic necessities may be powered by battery, household current, or a combination of both. Obviously, if taping will be done in the field, serious consideration should be given to a battery-operated camera and recorder, with AC current adapters for inside use. One of the serious drawbacks of this selection, however, is that the state of the art has yet to develop a battery-operated ¾-U recorder capable of handling the large 1-hour video cassettes.[3] Therefore, you may be faced with a decision of either purchasing a portable recorder and a larger player for indoors or limiting training to those tapes you produce.[4]

To simplify the following, let's assume that the camera may *generate* two specific signals, the recorder/player may *receive* and *generate* those two signals, and the television/monitor may receive the two signals: RF (radio frequency) signal and video signal. Looking at it in reverse, a television receiver normally has the capability of using only the RF signal to produce an image on the screen. The television antenna "captures" a transmitted signal, which is in the radio frequency spectrum, and converts it to the image seen. Therefore, if a television receiver is used for viewing tapes, the recorder/player (or the player, if that's all that was purchased) must be capable of generating an RF signal. Conversely, a television monitor is capable of receiving a video signal, not necessarily an RF signal. A monitor usually lacks a "tuner," that being the channel selector, and therefore, cannot be used for viewing commercial broadcasts. Obviously, the saving grace will then be to purchase either a television monitor/receiver or a recorder/player which generates the compatible signal.

On the other hand, a camera may have only one "output" capability, either RF or video signals. Once again, in the selection of the recorder/player, it is necessary to ensure that it has the capability of receiving the signal your camera will generate or select a camera capable of generating both signals.

Production Considerations

It was mentioned previously that the lecture vs. roleplaying video presentations could literally cut the time required to present a given topic. With this in mind, it must be remembered that the same basic trap can be fallen into with video.

Several large departments, as well as at least one leading Federal law enforcement agency, engage in a frowned-upon practice of concentrating their productions on "talking head." Simply put, talking head is a relatively stationary camera video taping an oral presentation of a lecturer.

If Lieutenant Fakler's concept of a seven-to-one ratio is accepted, little or no talking head should be used in video, as nothing is accomplished in the effort to reduce the presentation time of a subject. Furthermore, there is the risk of falling short of instructional objectives, because the lecturer may fail to touch on every point of a topic.

Don't forget, he'll probably not be around to answer the students' questions. (After all, that was your purpose for video taping his lecture, wasn't it?)

If there is an occasion to tape a knowledgeable individual, one whose schedule prohibits several appearances to many groups, the value of the individual's knowledge should be weighed against the requirements of your personnel and available funds for providing the learning. If, like in most law enforcement agencies, the same training program is offered to all department personnel within a given period of time, it may be better financially to "roleplay" the subject matter rather than to attempt the other option of paying high overtime rates to off-duty personnel to attend the lecture. This concept is based on the well-known, but little accepted, theory that full-time employees will be paid for their presence regardless of the duties they happen to be performing at the time, whereas payment of overtime has to be justified (and training is not usually as attractive to fiscal officers as crime solving). Therefore, if 200 man-hours are devoted to the production of a 20-minute roleplaying video tape, chances are that the funds expended for the actual production would not be over and above what would be paid in salaries.

The New User

The new user can include the police department which has the financial ability to purchase new video equipment, the department which has dusted off old equipment which is still usable, or the agency which has access to the necessary equipment (public schools, another branch of municipal government, etc.).

Regardless of the agency's size, certain internal structural changes may be necessary to assign an adequate number of men capable of providing the desired result. This may require expanding the training unit or at least redefining the goals of the men currently assigned. However, the time involved in their "first creation" must be understood and accepted by administrative supervisors.

Previously, a suggestion of 200 man-hours may be required for the production of a 20-minute tape. This figure, although not a rule, could very well be the case—and perhaps an optimistic estimate. Before anything is actually done, a decision must be made as to what type of video training is to be implemented. For example, many agencies have developed the "unscheduled training" approach.

The unscheduled training approach permits all department personnel to attend a video tape training session during any tour of duty, with as few as one man being taken off the street at a time. This is usually accomplished by placing the burden of the training schedule on the tour commander, requiring that all personnel under his command view the tape within a given period of time. Customarily, the tour commander is given more than one shift or basic scheduling period to accomplish this. In many instances, it may be impossible for him to lose even one man during high-crime hours, and he should have the option of training his men during early morning hours, if necessary.

One of the unique benefits of this approach is that the unscheduled training concept does not prohibit the trainee from being called out of his training session if needed on the street. He can always return later and usually pick up where he left off on the tape.

Many agencies using this technique have the video player and monitor set up in the room in which rollcall and assignments are also handled. In this manner a short tape, usually running under 3 minutes, is played to the men before they turn out for duty. These daily information tapes contain such items of interest as major criminal activity over the past 24 hours, wanted persons, special information from other department units, etc. The rollcall tape is probably one of the only exceptions to the unacceptable "talking head."

The Good, The Bad, and The Ugly

In almost 4 decades, television has progressed from the experimental and developmental stage to a highly competitive market. Less than 20 years ago, when color television was introduced in earnest to the consumer, only the wealthy, the foolish, or brave would invest close to $1,000 to see the few and far between television productions in "living color" (which barely would pass muster using today's standards). Today, at least one color television in a home is the rule rather than the exception.

If a professional image for law enforcement is to be built, then it is important to take a good hard look at priorities, with the suggestion that training stand out front. And, if we're to accomplish the training goals expected of us by society, then no agency should be "penny wise and pound foolish" in its approach to training. If we are to be subjected to the scrutiny of the press during the day, shown at our worst on the evening news, and then evaluated by the public for weeks to come, it is essential to band together in an effort to upgrade the professional image of law enforcement through training.

The Good

The first step has been taken with the general willingness to experiment with new ideas, one of which is video training. Men and women who have joined the police ranks believing they would fight crime on the streets have, with their departments' blessings, begun to produce some excellent video tapes that unquestionably have assisted their fellow officers. Commercial houses can't be expected to provide the tapes necessary for specific individual needs. We must continue to "roll our own," so to speak.

The Bad

Don't assume that any approach to the video concept is the best, even if it might be! Seek out the talents of others, and certainly don't quit! If subordinates and/or peers aren't impressed with individual efforts, then consider seeking their help with the production. Few, if any, of the departments involved in "roleplaying" have had any trouble recruiting volunteers from their ranks as actors and technicians. Cops love to play the "bad guy."

The Ugly

Once a department has incorporated video into its training programs and has achieved relative success, it should share its knowledge and expertise with other agencies. Suffolk County's AV/R Unit is noted for its efforts in this area. With literally vast amounts of money invested in sophisticated video equipment, they never fail to show their willingness to assist those in need. More importantly, they repeatedly state that they learn through cooperation with even the smallest agency.

Cooperation is the key to mutual success. Helping the small agency lacking video tape equipment to create its own law enforcement productions could be mutually beneficial in the end to both the large and small agencies. Assistance and cooperation will enhance the relationship between the two agencies, as well as provide satisfactory training material. **FBI**

Footnotes

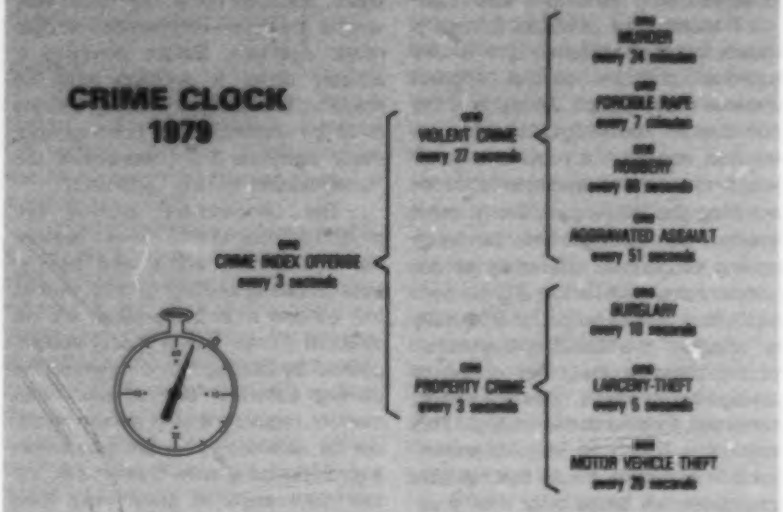
[1] The most productive form of training will be determined by the subject, not the method of presentation. Firearms training, for example, may be supplemented with some video, but certainly cannot be used exclusively. Additionally, many other subjects will require a "hands on" approach, which could exclude video altogether.

[2] John A. Niemi, ed. *Mass Media and Adult Education*, "What Should Mass Communications be Doing?" p. 15.

[3] ¾-U video cassettes are available in two physical sizes—KCA & KCS. KCA is the larger, designed to fit the larger nonportable recorder/players. Generally, they have tape lengths from 10 minutes to 1 hour. KCS tapes are in a physically smaller package, with tape lengths of up to 20 minutes.

[4] Normally, the KCS cassettes will fit into the larger nonportable machines. Therefore, tapes can be produced on small portable recorders and played back on a larger machine.

Crime Statistics



The crime clock should be viewed with care. Being the most aggregate representation of UCR data, it is designed to convey the annual reported crime experience by showing the relative frequency of occurrence of the Index Offenses. This mode of display should not be taken to imply a regularity in the commission of the Part I Offenses: rather, it represents the annual ratio of crime to fixed time intervals.

Crime in the United States

1979

According to figures released in the FBI Uniform Crime Reports' publication "Crime in the United States," which reports yearly the fluctuations of crime in the Nation, all Crime Index offenses escalated in volume during 1979. Totaling over 12 million offenses, or an average of 5,522 crimes per 100,000 U.S. inhabitants, the Index showed an overall 9-percent volume increase from 1978, while the estimated population of the United States rose by only 1 percent.

Violent crimes as a whole were up 11 percent: Murder and aggravated assault each jumped 10 percent; robbery, 12 percent; and forcible rape, 13 percent. Among the property crimes, which collectively rose 9 percent and accounted for 90 percent of the Index's volume, burglary increased 6 percent; larceny-theft, 10 percent; and motor vehicle theft, 11 percent. Although the collection of arson statistics began in 1979, this newly established Index offense is not included in these national trend figures. Complete annual figures are not available for this property crime, since not all contributing agencies were able to furnish arson reports for the entire year.

In 1979, the law enforcement community cleared 20 percent of the reported Index crimes. The clearance rate for the violent crimes was 44 percent—73 percent of murders, 59 percent of aggravated assaults, 48 percent of forcible rapes, and 25 percent of robberies. With respect to property crimes, a 17-percent clearance rate was recorded—19 percent of larceny-thefts, 15 percent of burglaries, and 14 percent of motor vehicle thefts. Persons under 18 years of age were involved in 27 percent of the Crime Index (excluding arson) clearances, 12 percent of violent crime clearances, and 31 percent of property crime clearances.

Nationally, an estimated 10.2 million arrests, 1 percent more than in 1978, were recorded for all criminal infractions other than traffic violations, while arrests for the eight Crime Index offenses alone rose 3 percent. Of those arrested for all crimes, 23 percent were under 18 years of age, 40 percent were under 21, and 57 percent were under 25. Arrests of males outnumbered those of females by 5 to 1 and accounted for 84 percent of all arrests and 81 percent of arrests for Index crimes.

Violent Crimes

Among regions and areas, the only decrease in murder offenses (2 percent) was reported in rural areas. For every 100,000 inhabitants, there was an average of 10 murder victims, and 1 of every 5 victims was related to his assailant. Sixty-three percent of the murders were committed with firearms. Concerning arrestees for murder, 44 percent were under 25 years of age and 25 percent were in the 18- to 22-year age group.

In 1979, 67 of every 100,000 females were rape victims, a 12-percent rate increase from 1978, while arrests for forcible rape increased 9 percent. Males under the age of 25 accounted for 57 percent of those arrested and 30 percent were in the 18- to 22-year age group.

For every 100,000 people in the United States, there were 212 robberies, an 11-percent rise from the 1978 rate. Primarily a large-city crime, 7 out of 10 robberies occurred in cities with populations of 100,000 or more, with a rate of 561 per 100,000 inhabitants. The average loss per robbery was $532, for a total reported loss of $248 million. Forty percent of the robberies were committed with firearms; 38 percent were strong-arm robberies. The remainder were committed with either knives or other cutting instruments or other dangerous weapons. Arrests for robbery were up 3 percent. Seventy-four percent of the arrestees were under 25 years of age, and females were arrested in 7 out of 100 robberies, an increase of 6 percent over 1978 arrests.

An average of 279 per 100,000 persons were aggravated assault victims in 1979, a rise of 9 percent over the 1978 rate. Twenty-three percent of aggravated assaults were perpetrated with firearms; 22 percent with knives or other cutting instruments; 28 percent with other dangerous weapons; and 27 percent with personal weapons such as hands, fists, and feet.

Property Crimes

Burglaries resulted in losses totaling $2.1 billion to victims, with an average loss of $644 per incident. For every 100,000 persons there were 1,499 burglaries reported, an increase of 5 percent. Seventy-three percent were forcible entries; 20 percent were unlawful entries (without force); and the remainder were forcible entry attempts. Adult arrests for burglary were up 6 percent from 1978, while arrests of persons under 18 years of age were down 6 percent. Persons under 25 years of age were the offenders in 83 percent of the burglary arrests, and those under 18 years of age in 49 percent. Six of every 100 arrestees were female.

A national rate of 2,988 larceny-thefts per 100,000 inhabitants, an increase of 9 percent over 1978 totals, was recorded in 1979. The average value loss was $256, for a total loss to victims of $1.7 billion nationally. Arrests for this offense increased 4 percent. Comprising the largest portion of Crime Index offenses, the larceny-theft category also accounted for 51 percent of the total arrests for Index crimes. Forty percent of the arrestees were under 18 years of age and 30 percent were females, who were arrested for this crime more often than any other.

An estimated average of 1 of every 145 registered motor vehicles was stolen nationally in 1979. For every 100,000 inhabitants, there were 498 offenses of motor vehicle theft, an increase of 10 percent. Total arrests for motor vehicle theft were down 1 percent from 1978. Sixty-nine percent of the arrestees were persons under 21 years of age and 49 percent were under the age of 18.

Police Officers Killed

During 1979, 106 law enforcement officers were feloniously killed in the line of duty, and an average of 17 of every 100 officers nationwide were assaulted. Assaults resulted in approximately 22,000 personal injuries to officers, for a rate of 6 per 100 officers. Personal weapons were employed in 82 percent of the assaults, while firearms, knives or other cutting instruments, and other dangerous weapons were used in the remainder. Of assaults resulting in personal injury, broken down by type of weapon used, 21 percent were caused by firearms, 34 percent by knives or other cutting instruments, 38 percent by personal weapons, and 41 percent by other dangerous weapons. Nearly one-half of the assaults against officers occurred during the hours of 8 p.m. to 2 a.m. Thirty-two percent of the assaults occurred while law enforcement officers were responding to disturbance calls, and vehicle patrol officers were victims in 80 percent of all assaults. **FBI**

Cooperation

"That Others May Live"

By CAPT. JERALD L. FOLKERTS

1550th Aircrew Training and Test Wing
Kirtland Air Force Base, N.M.

It was a winter day in the Rockies when the search began for a missing aircraft that was long overdue at its destination. Two days into the search, a New Mexico Civil Air Patrol aircraft crashed into a 12,500-foot, snow-covered ledge, 30 miles east of Taos, N.M. Both crewmembers were severely injured. Almost immediately, rescue aircraft were launched from Kirtland Air Force Base in Albuquerque. The commander of the helicopter realized that in order to hover at the high altitude of the crash site, he would have to keep his helicopter weight as low as possible. Working with a fixed wing rescue airplane, he was able to aerial refuel just prior to arriving at the crash site, talking on only enough fuel for one recovery attempt. After establishing hover at the site, two pararescuemen (PJ) were lowered by a hoist cable from the helicopter to assist the survivors. Working on the cold snow-covered ledge, the PJ's prepared the

survivors for a litter pickup. The pilot then maneuvered his helicopter over the ledge, while the flight engineer hoisted the survivors into the helicopter. A second aerial refueling was then accomplished, permitting safe return to Albuquerque and medical assistance for the two survivors. This article is about the 1550th Aircrew Training and Test Wing (ATTW), an organization dedicated so "THAT OTHERS MAY LIVE."

HF 019
AIR FORCE

Pararescuemen attend to victims at a simulated crash site.

Col. Bruce M. Purvine, Commander, 1550th Aircrew Training and Test Wing

Captain Folkerts

The 1550th ATTW is part of the Aerospace Rescue and Recovery Service (ARRS) established in 1946 as part of the Air Transport Command. Since its formation, ARRS personnel have saved the lives of over 19,000 persons who found themselves in dangerous situations and would not have survived without assistance.

The mission of the Aerospace Rescue and Recovery Service is multifaceted, ranging from combat rescue missions to weather reconnaissance and atmospheric sampling operations. A corollary mission is to provide assistance to civilians in distress. This support covers a broad spectrum from land and sea search and rescue (SAR) missions to transporting food, clothing, and medical supplies to victims of floods and earthquakes. Lost hunters, civilian pilots, wandering children, and injured mountain climbers are frequent subjects of search and rescue missions. In addition, coastal units are often used to recover critically ill seamen from ships located hundreds of miles out to sea.

The Air Force Rescue Coordination Center (AFRCC) located at Scott Air Force Base, Ill., coordinates all inland search and rescue operations, using assets from ARRS, the Civil Air Patrol, other military units, and a variety of volunteer organizations. The AFRCC also cooperates and works closely with State and local agencies in coordinating the services of police and sheriff department personnel, as well as local volunteeer rescue teams to aid persons in distress.

The Civil Air Patrol (CAP), an official auxiliary of the Air Force, flies 80 percent of the air search hours flown on all inland search and rescue missions. CAP pilots volunteer their time and aircraft on very short notice, often for days at a time, and are reimbursed only for fuel, oil, and communications.

Military Assistance to Safety and Traffic (MAST) was adopted by the U.S. Government as a program in which military equipment and personnel are used to assist traffic accident victims and other civilians in medical emergencies. Although rescue units do not compete with civilian agencies capable of performing the required medical evacuation, many ARRS units participate in MAST missions on a regular basis. Since this test program proved extremely successful, MAST programs have been implemented at six ARRS light lift helicopter units in the United States and have assisted in saving 800 lives.

It is the responsibility of the 1550th Aircrew Training and Test Wing, Kirtland Air Force Base, to train crewmembers for worldwide combat rescue operations and to test new equipment for rescue use. The 1550th ATTW includes the consolidated Air Force helicopter school, the specialized aircrew training school, and the advanced pararescue training school. The school teaches 33 different courses of instruction for four different types of helicopters and one primary fixed wing rescue aircraft.

The 1550th Flight Training Squadron conducts flight training in two different aircraft designated as light lift helicopters. These helicopters are primarily utility transport helicopters and are used for a variety of missions, including combat rescue, survival school support, firing range support, and MAST.

The squadron also operates two heavy lift helicopters, one of which is the Air Force's largest, fastest, and most powerful helicopter. Since both are equipped with a retractable probe for aerial refueling and an external rescue hoist, they are used for search and recovery of personnel and equipment.

The primary fixed wing rescue aircraft is designed for long-range search, location, and recovery of personnel or hardware. A wide range of communications gear is used for the aircraft's primary role as airborne command post for long-range search operations. The aircraft also contains an overhead delivery system for the air drop of supplies or equipment to survivors on the ground or in the water. Two models have the capability to aerial refuel helicopters from their own wing tanks and extra internal fuel tanks.

A burn victim is treated by an Army and Air Force team of medical technicians enroute to a burn treatment center in Texas.

Training crewmembers is the primary mission of the 1550th ATTW, of which the Air Force Pararescue School is part. The pararescueman is known throughout the Air Force and the world for heroism and knowledge of many diverse and challenging fields. He is a parachutist, a scuba diver, a mountain climber, and most important, a highly trained medical technician.

The 1550th is the finishing school for the PJ who has already had extensive physical conditioning and medical training, basic jump school, scuba training, and survival training. But there is still a long way to go before winning the coveted maroon beret.

The 1550th's 8-week advanced program includes medical training, with 2 weeks of laboratory training and actual medical situations to simulate realistically almost any injury the PJ could encounter.

The PJ then moves on to the advanced jump training, including tree and water jumps and the particularly hazardous night jumps. The program includes three land jumps, three water jumps, and one tree jump. After the tree jump, the PJ must be able to lower himself to the ground to reach his victim and provide medical assistance.

In his fifth week of training, the PJ student is introduced to mountain rescue procedures and techniques. He must know how to come down the mountain with a survivor, as well as how to get there in the first place. Pararescuemen are used in teams to reach difficult mountainous areas that are inaccessible by other means, and they must learn teamwork principles,

After rescuing two injured Civil Air Patrol pilots from a crash site, personnel from Kirtland's 1550th ATTW transport victims to hospital for treatment

as well as the individual climbing techniques.

In operations training, students are taken to test sites on the mesas and mountains surrounding Albuquerque, where the training is done on land and water. After operations training, students learn search and rescue procedures and tactics.

Many advances in rescue techniques and operations have been recorded in recent years. One of the most important new techniques is also one of the most important facets of the 1550th's training program—aerial refueling. This is accomplished in flight with helicopters refueling behind fixed wing aircraft. Aerial refueling greatly extends the flying range of the helicopters and allows them to reach survivors faster, since they won't have to land to refuel. Without the air refueling team concept, many of the rescue missions successfully completed would not have been possible.

Although the 1550th ATTW is a training wing, it provides search and rescue coverage and has been called upon many times for assistance. During the week, aircraft can be diverted from training missions to participate in SAR operations and respond on a short-notice basis. On weekends, designated crews are kept on standby for any possible SAR activity. Since the wing moved to Kirtland in 1976, it has run 95 rescue missions and saved 64 lives.

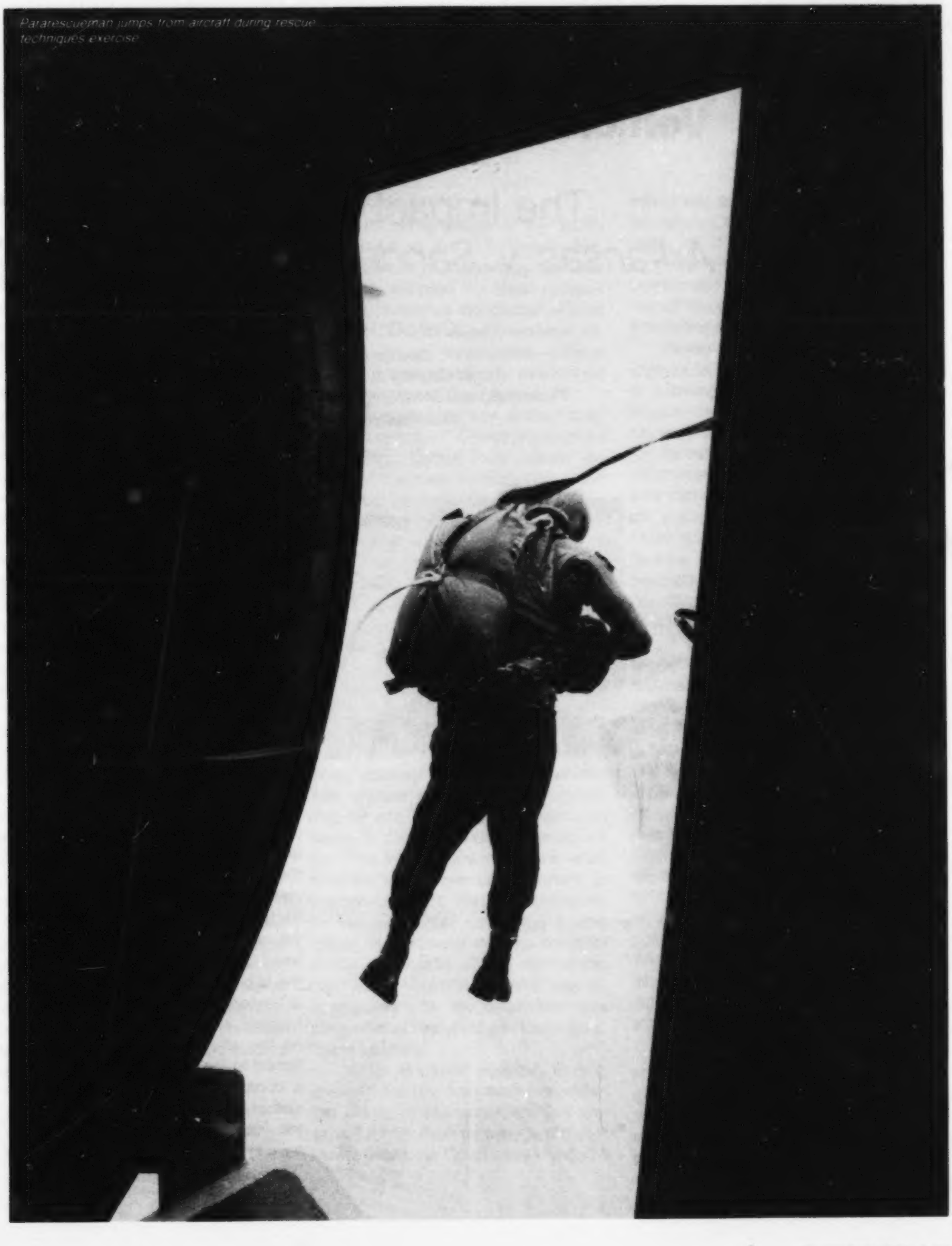
Ask a local Catholic priest who crashed his plane west of Albuquerque in January. He suffered a compound fracture of the leg, internal injuries, and facial lacerations. In spite of heavy rain and 150-foot ceilings, he is alive today, thanks to a rescue team.

Or ask the pilot of a light aircraft who was having difficulty maintaining safe visual flight in the mountains east of Albuquerque. A 1550th ATTW pilot on a training mission established the light aircraft's position, talked the pilot out of climbing into cloud and moderate icing conditions (he was not instrument qualified), and directly contributed to the light aircraft's subsequent safe landing.

Ask the seriously burned 38-year-old electrician who was flown by helicopter to a burn team from the Brooke Army Medical Center.

Or ask the crew from the New Mexico Civil Air Patrol aircraft who were mentioned in the beginning of this article. They were able to attend a wing gathering and thank all personnel that they are alive today.

After all, that's what it is all about. The 1550th ATTW trains an elite cadre of Air Force personnel to carry out worldwide rescue missions. These men and women live by the motto "THESE THINGS WE DO, THAT OTHERS MAY LIVE." **FBI**



Pararescueman jumps from aircraft during rescue techniques exercise

The Legal Digest

Warrantless Vehicle Searches:

The Impact of *Arkansas* v. *Sanders*

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John C. Hall

Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

On June 20, 1979, the U.S. Supreme Court decided *Arkansas* v. *Sanders*.[1] This article will examine the holding in that case in light of the development and state of the applicable law, and through examination of State and lower Federal court cases applying and interpreting that decision, measure its impact on the authority of law enforcement officers to conduct warrantless searches and seizures.

The Facts

On April 23, 1976, police officers in Little Rock, Ark., received information from an informant that Sanders would arrive at the Municipal Airport on that date, at a specific time and on a specific flight, carrying a green suitcase filled with marihuana. The same informant had provided information leading to the arrest and conviction of Sanders on a previous occasion for possession of marihuana. Acting on the information received, the officers set up a surveillance at the airport to await Sanders' arrival. Consistent with the informant's tip, Sanders appeared at the terminal carrying some handheld luggage, which he placed inside a taxi. As the officers watched, Sanders returned to the baggage claim area, met a companion, and retrieved a green suitcase matching that described by the informant. After placing the suitcase in the trunk of the waiting taxi, the

". . . the courts have generally considered two factors: The *nature* of the container and its *condition* at the time of the search."

two men entered the vehicle and were driven away. The officers pursued the vehicle, stopped it on the highway, and requested the taxi driver to open the trunk. The green suitcase was removed from the trunk by the police and opened immediately, revealing a large quantity of marihuana which was introduced at Sanders' trial for possession. Sanders' conviction was appealed to the Arkansas Supreme Court which reversed, holding that even though there was ample probable cause to believe that contraband was located in the suitcase, there were no exigent circumstances justifying a warrantless search.[2] From that ruling, the State appealed to the U.S. Supreme Court, contending that the warrantless search of the suitcase was proper as part of an automobile search, lawfully conducted under the "automobile exception" to the warrant requirement of the fourth amendment.[3]

The Issue

The question presented to the U.S. Supreme Court was, therefore, "whether, in the absence of exigent circumstances, police are required to obtain a warrant before searching luggage taken from an automobile properly stopped and searched for contraband."[4]

To understand properly the Court's response to the question posed, it is essential to review briefly the development and general state of that portion of the law governing warrantless automobile searches on which the State relied in framing its appeal to the Supreme Court.

The Background

In its interpretation of the fourth amendment to the U.S. Constitution, the Supreme Court has long held and frequently restated the basic proposition that searches conducted without warrants "are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions."[5]

One such exception is the "automobile exception." Commonly referred to as the "Carroll Rule" (from the name of the case in which the Court first articulated it, *Carroll* v. *United States*[6]), this exception to the warrant requirement was, from its inception, based on two factors: 1) *probable cause* to believe that an automobile or other mobile vehicle contains evidence or contraband,[7] and 2) the *mobility* of the vehicle which may make it impracticable to secure a warrant "because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought."[8] The "automobile exception" is distinct from, although frequently confused with, another exception to the warrant requirement, the search incident to an arrest. In *Carroll,* the Court pointed out that "the right to search and the validity of the seizure are not dependent on the right to arrest. They are dependent on the reasonable cause the seizing officer has for belief that the contents of the automobile offend against the law."[9] It is noted that Carroll was arrested only *after* his automobile was stopped and searched and contraband found inside.

Since its *Carroll* decision, the Supreme Court has frequently reasserted the vitality of the exception thus created.[10] It may even be fairly said that in recent years the Court has exhibited a willingness to apply a rather broad interpretation to the "mobility" requirement of the rule, upholding the warrantless searches of cars under circumstances where the actual risk that the vehicle would be removed from the jurisdiction was virtually nonexistent.[11]

However, despite its apparent willingness to take a rather "broad" view in allowing warrantless searches of mobile vehicles based on probable cause, the Court has not been as willing to extend that same authority to other items of personal property, however movable they might be. For example, in *United States* v. *Chadwick,*[12] the Court ruled unconstitutional the warrantless search of a 200-pound, double-locked footlocker by Federal narcotics agents. The Government contended that there was probable cause to believe the footlocker contained contraband and that factor, coupled with the movability of the footlocker itself, made the search analogous to the warrantless search of an automobile under the "automobile exception."

While conceding that such items as personal luggage are movable, and recognizing that one of the underlying justifications for the "automobile exception" is the "inherent mobility, which often makes obtaining a judicial warrant impracticable,"[13] the Court pointed out that an important distinction between the two is the "diminished expectation of privacy which surrounds the automobile." The Court stated:

> "Unlike an automobile, whose primary function is transportation, luggage is intended as a repository of personal effects. In sum, a person's expectations of privacy in personal luggage are substantially greater than in an automobile."[14]

". . . the container can be lawfully seized pending receipt of a search warrant, and so presumably can any suspect whom the police have probable cause to believe is the possessor of the evidence or contraband being sought."

Thus, while the Court continued to recognize the validity of the "automobile exception" to justify the warrantless *search of vehicles,* it declined to extend that same rationale to allow warrantless *search of personal containers,* such as luggage, wherein, despite the movability of such containers, the "expectation of privacy" is considered to be greater.[15]

Chadwick did not purport to decide whether the warrantless *search of an automobile* under the "automobile exception" could extend to personal containers (such as luggage) located within the automobile. Nor had the Court previously considered that question. It is clear, however, that prior to *Chadwick,* the lower Federal courts made little, if any, distinction between the automobile and containers located inside. In fact, the "automobile exception" was generally interpreted to permit the warrantless search of the automobile and any containers located therein which could conceivably conceal the evidence or contraband being sought. In a typical pre-*Chadwick* case, *United States* v. *Soriano,*[16] a Federal appeals court upheld the warrantless search of suitcases removed from the trunk of an automobile. The court stated:

> "The officers . . . indisputably had probable cause to believe that the vehicle contained contraband, a circumstance justifying the initial incursion into the trunk. Under established law in this circuit and elsewhere, this justification encompassed the search of containers in the vehicle which could reasonably be employed in the illicit carriage of the contraband."[17]

Following *Chadwick,* this "established law" became less established, and a divergence of views began to develop in the lower courts. In *United States* v. *Stevie,*[18] for example, one Federal appeals court suppressed marihuana found during a warrantless search of a suitcase which had been removed from an automobile. The court held that although *Chadwick* did not circumscribe the "automobile exception," a person's "expectation of privacy in the contents of luggage . . . is entitled to the protection of the Fourth Amendment whether the luggage is located inside or outside an automobile."[19] On the other hand, in *United States* v. *Finnegan,*[20] a different Federal court upheld the warrantless search of a suitcase located in an automobile under similar circumstances. The court read *Chadwick* as merely declining to create a new exception to the warrant requirement, but in no way affecting the scope of the already existing "automobile exception." Accordingly, the court found that there was probable cause to believe contraband was in the suitcase and "exigent circumstances were present here because the automobile containing the luggage could be moved."[21] The court noted that to rule otherwise would produce the "inconsistent and contradictory" result that "a police officer could search and seize a brick of marijuana lying inside the trunk of a car but not a brick of marijuana lying inside a suitcase in the trunk of a car."[22]

And so it was against this backdrop—the evolution of the "automobile exception," the question implicitly raised by *Chadwick* regarding the proper scope of that exception, and the conflicting responses to the problem among the lower courts—that *Arkansas* v. *Sanders* was decided.

The Decision

Considering for the first time the constitutionality of a warrantless search of luggage taken from a lawfully stopped automobile, the Supreme Court held:

> "[T]he warrant requirement of the Fourth Amendment applies to personal luggage taken from an automobile to the same degree it applies to such luggage in other locations. Thus, insofar as the police are entitled to search such luggage without a warrant, their actions must be justified under some exception to the warrant requirement other than that applicable to automobiles stopped on the highway."[23]

The Rationale

In explaining the basis for its ruling in *Sanders,* the Court stated:

> "There are essentially two reasons for the distinction between automobiles and other private property. First . . . the inherent mobility of automobiles often makes it impracticable to obtain a warrant. . . . In addition, the configuration, use and regulation of automobiles often may dilute the reasonable expectation of privacy that exists with respect to differently situated property. . . . One is not less inclined to place private, personal possessions in a suitcase merely because the suitcase is to be carried in an automobile rather than transported by other means or temporarily checked or stored. Indeed, the very purpose of a suitcase is to serve as a repository for personal items when one wishes to transport them."[24]

Although the actual holding in *Sanders* is narrowly confined to "personal luggage," the Court recognized that the underlying rationale for that holding—greater privacy expectation in personal luggage than in automobiles—could apply to other types of containers as well. In a footnote to its decision, the Court stated:

> "There will be difficulties in determining which parcels taken from an automobile require a warrant for their search and which do not. Our decision in this case means only that a warrant generally is required before personal luggage can be searched and that the extent to which the Fourth Amendment applies to containers and other parcels depends not at all upon whether they are seized from an automobile." [25]

What it does depend on is a case-by-case determination of privacy expectation in each particular type of container encountered during the course of a warrantless automobile search.

The Impact

The dissenting opinion in *Sanders* complained that the decision ". . . undermines the automobile exception . . . creates . . . greater difficulties for law-enforcement officers, for prosecutors, for those suspected of criminal activity, and of course, for the courts themselves," and predicted that "soon to be litigated are the briefcase, the wallet, the package, the paper bag, and every other kind of container." [26]

In the aftermath of *Sanders,* State and lower Federal courts have indeed considered a wide variety of cases dealing with containers located in properly searched automobiles and have determined that a search warrant is required for most of them, including a briefcase,[27] a wallet,[28] a leather pouch,[29] a guitar case,[30] a backpack,[31] a satchel,[32] a purse,[33] a cardboard box,[34] a portfolio,[35] a leather box,[36] a small metal box,[37] a locked tool box,[38] an athletic bag,[39] a camera case,[40] a shaving kit,[41] a cloth whiskey bag,[42] and jacket pockets.[43]

In most of these cases, the courts did not find a lack of probable cause to support the warrantless search of the automobiles involved, but rather concluded that there was a greater expectation of privacy with respect to the particular container found inside the car. Typical is *United States* v. *Dien,*[44] wherein the court determined that there was probable cause to support the warrantless search of a van, as well as the warrantless seizure of three large, partially taped, cardboard boxes found inside the van. However, the court suppressed marihuana found inside the boxes as the result of a warrantless search and stated:

> "By placing the marijuana inside a plain cardboard box, sealing it with tape, and placing it inside a van the windows of which had been painted over and in which plywood had been placed behind the driver's seat, [defendants] manifested an expectation that the contents would remain free from public examination." [45]

While it may be tempting to conclude from the foregoing that surely every conceivable container falls within the *Sanders* rule and requires a warrant for its search, in reality some courts have concluded that certain containers are not deserving of the same high expectation of privacy as luggage and can therefore be searched without a warrant. In fact, a footnote to the Supreme Court's decision in *Sanders* explained:

> "Not all containers and packages found by police during the course of a search will deserve the full protection of the Fourth Amendment." [46]

In distinguishing those containers which are deserving of the "full protection of the Fourth Amendment" from those which are not, the courts have generally considered two factors: The *nature* of the container and its *condition* at the time of the search.

In *Flynn* v. *State,*[47] the court upheld the warrantless search of a large plastic garbage bag inside a truck when the officer who had just arrested the driver smelled the strong odor of marihuana. The court concluded, "Placing items in a black plastic garbage bag fails to manifest an expectation of privacy." [48] Similarly, in *Webb* v. *State,*[49] the court noted that there is an "arguable difference between the reasonable expectation of privacy one might attach to a paper bag as opposed to a briefcase or luggage of some type."[50] A similar approach was taken in other cases to sustain the warrantless search of a knapsack [51] and a paper cup.[52]

In *State* v. *Kahlon,*[53] the court upheld the warrantless search of a cardboard box located in an automobile, primarily because of the box's condition at the time of the search. A police officer who had stopped the vehicle on the highway for a traffic violation smelled burning marihuana, which the driver admitted he had been smoking, inside the vehicle. The officer then searched the car, including a cardboard box located in the trunk, and found the contraband. The court found the search of the automobile to be valid under the "automobile exception." With respect to the search of the cardboard box, the court said:

> "Unlike the luggage in *Arkansas* v. *Sanders* . . . the flaps of the box did not completely cover it, the opening at the top of the box plainly showed a green plastic bag from which the odor could be detected and there were tear holes in the plastic bag. . . . In these circumstances it cannot be said that defendant had any reasonable expectation of privacy in the contents of the box. . . ."[54]

Conclusion

The foregoing cases illustrate the difficulty confronting a law enforcement officer who attempts to determine which containers found in a lawfully searched vehicle can be searched immediately without a warrant and which cannot. The myriad of factors which courts may consider in making such determinations undoubtedly suggests the wisdom of seeking a search warrant in all but those instances where, due to the nature or condition of the particular container, it appears that little, if any, expectation of privacy exists.

Once the determination has been made that a warrant is necessary to search such a container, the language of the court in *Sanders* provides a possible course of action to safeguard the container, as well as any suspects—if necessary—until a search warrant can be obtained. In discussing the alternatives available to the police, the Court stated the question as follows:

> ". . . whether the police, rather than immediately searching the suitcase without a warrant, should have taken it, *along with respondent*, to the police station and there obtained a warrant for the search."[55]

Inasmuch as the Court's decision emphatically rejected the first alternative, it would seem to have implicitly approved the second. Thus it is clear that the container can be lawfully seized pending receipt of a search warrant, and so presumably can any suspect whom the police have probable cause to believe is the possessor of the evidence or contraband being sought. In many cases arrests will have occurred before the search of the vehicle is conducted. But in others, such as *Sanders*, that may not be the case. In the event that the officers do not desire to make a formal arrest of a suspect, the existence of probable cause would appear to be sufficient to support a detention until the warrant can be obtained. The precise course of action to follow will obviously depend on the circumstances of each case and may also be affected by local rules and departmental policy.

As a final note, it must be emphasized that the court did not rule out the warrantless search of personal containers—such as luggage—under all circumstances. For example, the court recognized that there might be "special exigencies" justifying the warrantless search of a suitcase.[56] Nor did the court in *Sanders* consider the extent to which other exceptions to the warrant requirement—e.g., consent search, search incident to arrest, or inventory—might apply to the search of personal containers. The court simply held that warrantless searches of such containers, if undertaken, "must be justified under some exception to the warrant requirement other than that applicable to automobiles stopped on the highway."[57] **FBI**

Footnotes

[1] 422 U.S. 753 (1979).

[2] 559 S.W.2d 704 (1977).

[3] *Supra* note 1, at 761.

[4] *Id.* at 754.

[5] See, e.g., *Katz* v. *United States*, 389 U.S. 347, 357 (1967).

[6] 267 U.S. 132 (1925).

[7] *Id.* at 158 and 159.

[8] *Id.* at 153.

[9] *Supra* note 6, at 159.

[10] See, e.g., *Husty* v. *United States*, 282 U.S. 694 (1931); *Scher* v. *United States*, 305 U.S. 251 (1938); *Brinegar* v. *United States*, 338 U.S. 160 (1949); *Chambers* v. *Maroney*, 399 U.S. 42 (1970); *Texas* v. *White*, 423 U.S. 67 (1975); *United States* v. *Ortiz*, 422 U.S. 891 (1975); and *United States* v. *Martinez-Fuerte*, 428 U.S. 543 (1976).

[11] *Id. Chambers* v. *Maroney* and *Texas* v. *White*.

[12] 433 U.S. 1 (1977).

[13] *Id.* at 12.

[14] *Id.* at 13.

[15] For a fuller discussion of *Chadwick*, see "Search Incident To Arrest—New Restrictions On An Old Doctrine?" by SA Larry E. Rissler, *FBI Law Enforcement Bulletin*, September 1978, pp. *27–32*.

[16] 497 F.2d 147 (5th Cir. 1974).

[17] *Id.* at 149. See also, *United States* v. *Tramunti*, 513 F.2d 1087 (2d Cir. 1975), cert. denied, 423 U.S. 832 (1975); *United States* v. *Milhollan*, 599 F.2d 526 (3d Cir. 1979); *United States* v. *Aviles*, 535 F.2d 658 (5th Cir. 1976), cert. denied, 433 U.S. 911 (1977); *United States* v. *Giles*, 536 F.2d 136 (6th Cir. 1976); *United States* v. *Issod*, 508 F.2d 990 (7th Cir. 1974), cert denied, 421 U.S. 916 (1975); *United States* v. *Matlock*, 558 F.2d 1331 (8th Cir. 1977); and *United States* v. *Friesen*, 545 F.2d 672 (9th Cir. 1977), cert. denied, 433 U.S. 911 (1977).

[18] 582 F.2d 1175 (8th Cir. 1978), cert. denied, 443 U.S. 911 (1977).

[19] *Id.* at 1178.

[20] 568 U.S. 637 (9th Cir. 1977).

[21] *Id.* at 641.

[22] *Id.*

[23] *Supra* note 1, at 766.

[24] *Id.* at 761 and 762.

[25] *Id.* footnote 13.

[26] *Id.* at 768.

[27] *United States* v. *Gooch*, 603 F.2d 122 (10th Cir. 1979); see also, *Araj* v. *State*, 592 S.W.2d 603 (Tex. Cr. App., 1979).

[28] *Commonwealth* v. *Moon*, 394 N.E. 2d 984 (Mass. App., 1979).

[29] *United States* v. *Ross*, 27 Cr.L. 2169, (D.C.Cir. 1980).

[30] *United States* v. *Bella*, 605 F.2d 160 (5th Cir. 1979).

[31] *United States* v. *Meier*, 602 F.2d 253 (10th Cir. 1979).

[32] *Liles* v. *State*, 375 So.2d 1094 (Fla. App., 1979).

[33] *Ulesky* v. *State*, 379 So.2d 121 (Fla. App., 1979).

[34] *People* v. *Rinaldo*, 399 N.E.2d 1027 (Ill., 1980).

[35] *United States* v. *Miller*, 608 F.2d 1089 (5th Cir. 1979).

[36] *People* v. *Dalton*, 598 P.2d 467 (Cal., 1979), cert. denied, 63 L.Ed.2d 781 (1980).

[37] *Id.*

[38] *Id.*

[39] *State* v. *Marcum*, 601 P.2d 975 (Wash. App. 1979); see also, *State* v. *Hassapelis*, 404 A.2d 232 (Me., 1979).

[40] *State* v. *Delong*, 602 P.2d 665 (Or. App., 1979).

[41] *Moore* v. *State*, 594 S.W.2d 245 (Ark., 1980).

[42] *People* v. *Bayles*, 395 N.E.2d 663 (Ill., 1979).

[43] *State* v. *Cole*, 265 S.E.2d 507 (N.C. App. 1980); see also, *People* v. *Belton*, 407 N.E.2d 420 (N.Y., 1980).

[44] 609 F.2d 1038 (2d Cir. 1979), rehearing, 615 F.2d 10 (1980).

[45] *Id.* first citation, at 1045.

[46] *Supra* note 1, footnote 13.

[47] 374 So.2d 1041 (Fla. App., 1979).

[48] *Id.* at 1042, see also *United States* v. *Gooch*, *supra* note 27, and *Cobb* v. *State*, 378 So.2d 82 (Fla. App., 1980).

[49] 373 So.2d 400 (Fla. App., 1979).

[50] *Id.* at 403; see also *United States* v. *Ross*, *supra* note 29.

[51] *State* v. *Schrier*, 283 N.W.2d 338 (Iowa, 1979).

[52] *People* v. *Diaz*, 26 Cr.L. 2510 (Cal. App., 1980).

[53] 411 A.2d 1178 (N.J., 1980).

[54] *Id.* at 1183.

[55] *Supra* note 1, at 761.

[56] *Id.* see footnote 11.

[57] *Id.* at 766.

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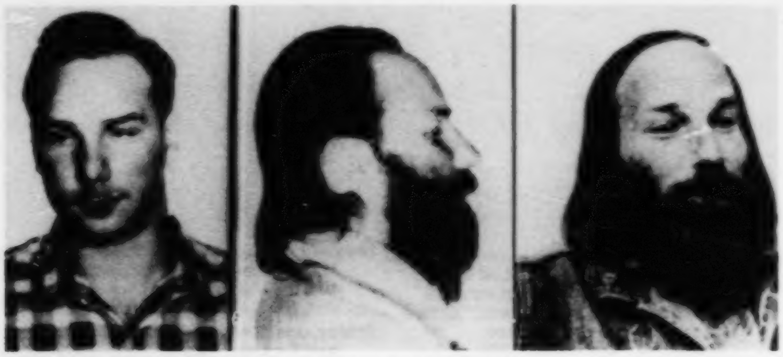
Photograph left taken 1959, center taken 1968, and right taken 1970.

WANTED BY THE FBI

Donald Robert Waskey

Donald Robert Waskey, also known as Ulysses S. Grant, Ulysses Simpson Grant, Donald Ronald Jensen, and J. C. Vulcan.

Wanted For:

Interstate Flight—Murder

The Crime

On December 1, 1970, Waskey reportedly shot and killed two men after he was allegedly involved in a dispute over home furnishings with other commune members in Placitas, N.M.

A Federal warrant was issued for his arrest on August 30, 1971, at Albuquerque, N. M.

Description

Age	42, born December 28, 1937, Baltimore, Md. (not supported by birth records).
Height	5'10".
Weight	195 pounds.
Build	Heavy.
Hair	Brown (receding hairline).
Eyes	Hazel.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Mechanic, mechanical drawing instructor, salesman, sculptor, teacher, water-color artist, and welder.
Remarks	May be cleanshaven and hair may be worn short.
Social Security No. Used	218-32-7464.
FBI No.	762 219 C.

Caution

Waskey allegedly shot two men with a rifle. He should be considered armed and dangerous.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

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NCIC Classification:
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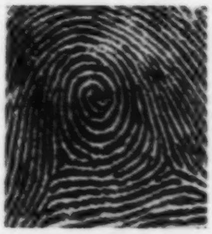
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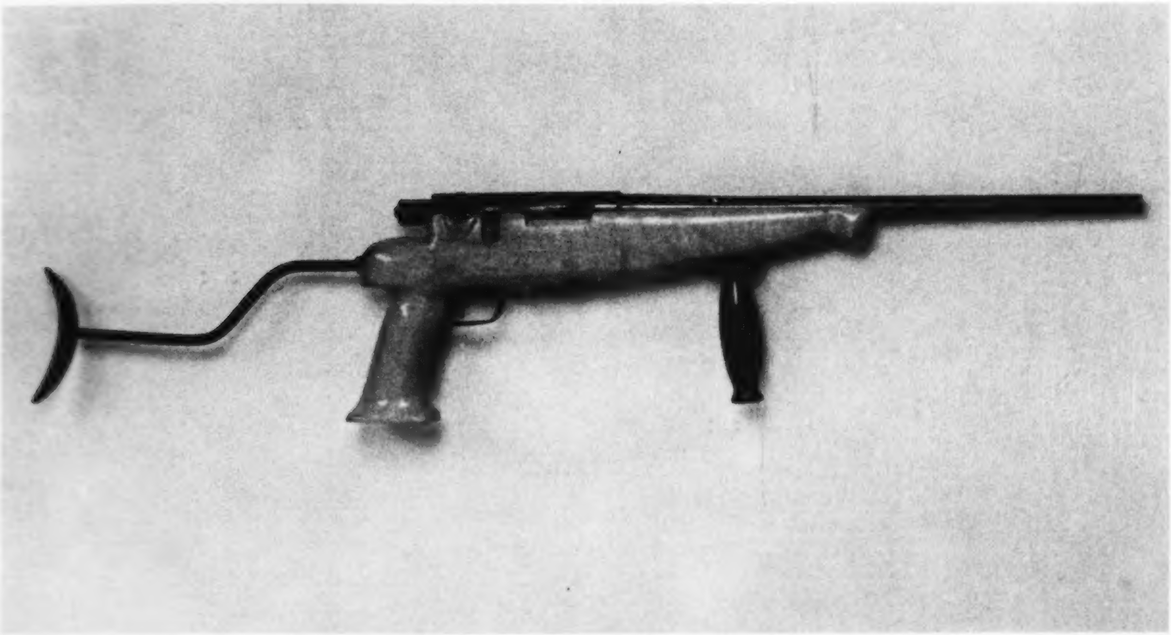
Modified Shotgun

Recently recovered by officers of the Columbus, Miss., Police Department, this 410-gage shotgun was modified to resemble a "grease gun." A grip was added to the stock of the weapon and the barrel shortened, enabling the user to conceal it by strapping it to his shoulder under his coat.



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Interesting Pattern

This pattern at first glance appears to be a central pocket loop-type whorl. A closer inspection, however, reveals the lack of a recurve in front of the inner delta. This pattern is classified as a loop with 19 ridge counts. However, a reference search would be conducted as a central pocket loop-type whorl with an outer tracing.